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DATE: April 30, 2004

TO: Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director
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SUBJECT: **SAN MATEO COUNTY LCP AMENDMENT NO. 2-MAJ-02**
(For public hearing and Commission action at its meeting of May 12, 2004 in San Rafael)

SUMMARY OF STAFF RECOMMENDATION**Proposed Project**

The proposed Moss Beach Highlands development includes subdivision of a 12.5-acre parcel into 59 lots, construction of 55 market-rate single-family homes, four two-story apartment buildings with a total of 73 senior low-income rental units, a community recreation building, tot lot, and associated infrastructure improvements. The project site, which is identified in the San Mateo County LCP as a potential affordable housing site, is located inland of Highway 1, just north of the Half Moon Bay airport at the base of Montara Mountain and the edge of the urban/rural boundary in the unincorporated community of Moss Beach. The immediately surrounding land uses include extensive highly scenic open space, agriculture, single-family homes, and the Seton Medical Center Coastsides, which is a 116-inpatient residential nursing care facility with small emergency and adult acute care units surrounded by large trees.

The project site is comprised of two terraces, separated by steep slopes. The single-family homes would occupy the majority of the developed area, approximately 5.7 acres total, and would be located primarily on the upper terrace, but with some lots located along a road that would traverse the site from the base of the lower terrace, up the hillside to the upper terrace. The proposed apartment buildings, recreation building and associated parking lots would be located on an approximately 2-acre portion of the lower terrace adjacent to Etheldore Street.

Action by San Mateo County

The County's actions on the project include both approval of a coastal development permit, which has been appealed to the Commission, and a request for Commission certification of an LCP amendment. Although the County acted on both the CDP and LCP amendment at the same time, the CDP is dependent on Commission certification of the proposed changes to the LCP because the approved development does not conform to the LUP Policy concerning affordable housing requirements or to the zoning designation for the site. As such, the Commission will consider the LCP amendment before taking action on the appeal.

Recommendation on Proposed Amendment

The proposed LCP amendment includes changes to both the County LCP land use and implementation plans. The LUP amendment would modify LUP Policy 3.16(b) to allow the Board of Supervisors to adjust the percentages of low and/or moderate-income units at three potential affordable housing sites in the San Mateo County Mid-Coast. The staff recommends that the Commission certify the LUP amendment with suggested modifications to clarify that the LCP density bonus provisions for affordable housing development may only be implemented if the resulting development conforms to the coastal resource protection policies of the certified LCP.

The IP amendment, which is specific to the South Moss Beach site, would rezone the site from Affordable Housing/Design Review/Coastal Development (R-3-A/S-5/DR/CD) to Planned Unit Development/Design Review/Coastal Development (PUD/DR/CD), approve a Precise Development Plan for the site, and designate site-specific development standards. The staff recommends that the Commission deny the IP amendment because the Precise Development Plan would authorize development that is inconsistent with policies of the certified LUP concerning visual resources, landform alteration, hazards, wetlands, and sensitive habitat. Specifically, the Precise Development Plan would allow:

- Development on and near a ridgeline and hilltop as viewed from Highway 1 in conflict with LUP Policy 8.7, which prohibits development on ridgeline and hilltops and development from projecting above ridgelines.
- Development on slopes with a grade of 30% or steeper in conflict with LUP Policy 9.18, which prohibits development on slopes of 30% or steeper unless alternatives exist.
- Approximately 92,000 cubic yards of grading with extensive use of retaining walls in conflict with 8.13, which requires structures to be designed to fit the topography of the site and not require extensive cutting, grading, and filling for construction.
- Development immediately adjacent to a wetland in conflict with LUP Policies 7.18 and 7.19, which prohibits development within 100 feet of wetlands, and
- Development adjacent to an environmentally sensitive habitat that would significantly degrade the habitat and reduce its biological productivity in conflict with LUP Policy 7.3, which requires development to be sited and designed to avoid significant adverse impacts to and maintain the biological productivity of sensitive habitats.

For these reasons, *the staff recommends that the Commission deny certification of the Precise Development Plan as submitted.* Staff further notes that since the property has not been subdivided and is one parcel with one owner, alternatives are clearly available which would provide for some development consistent with the provisions of the certified LCP. However, the numerous LUP policy conflicts presented by the proposed Precise Development Plan cannot be corrected without comprehensive changes to the plan, requiring substantial site design, architectural, and engineering work. Such a fundamental redesign of the Precise Development Plan is too extensive to be undertaken by the Commission through suggested modifications.

Therefore, staff recommends denial of the IP amendment but does not recommend certification with suggested modifications.

Changed Circumstances since LCP Certification in 1981

The South Moss Beach site was designated as one of four potential affordable housing development sites located in the San Mateo County Mid-Coast region when the County's LCP was certified in 1981. However, in addition to the specific LUP policy conflicts presented by this proposed Precise Development Plan that are identified above, review of the proposed development raises a future issue regarding whether designation of the site for potential affordable housing with a maximum potentially allowable medium-high density development remains realistic under present circumstances. Significant changed circumstances since the time that the LCP was certified in 1981 include:

- Growth in the Mid-Coast area has occurred at less than half the rate anticipated.
- Plans to construct a Highway 1 Devil's Slide bypass through Moss Beach and Montara inland of the South Moss Beach site have been abandoned in favor of a tunnel.
- The Peninsula Open Space Trust acquired the 4,262-acre Rancho Corral de Tierra surrounding Moss Beach and Montara directly contiguous with the South Moss Beach site. This open space acquisition is contiguous with the 625-acre McNee Ranch State Park acquisition and Golden Gate National Recreation Area lands to the east. Presently, the site borders on over 6,700 acres of adjoining publicly accessible highly scenic and biologically valuable open space lands, and further substantial additions to these open space areas are expected to occur through the Caltrans Devil's Slide Tunnel project.

As a result of the changed circumstances noted above, much of the area around Moss Beach and Montara remains undeveloped and is now permanently protected open space. The County is currently in the process of updating the Mid-Coast portion of the LCP and is considering whether to reduce the annual residential growth limit and the LCP buildout numbers to reflect these changed circumstances.

Since certification of the LCP in 1981, the 40-acre Miramar site has been dropped from the list of potential affordable housing sites and an affordable housing development approved for the North Moss Beach site in 1988 was never carried out. Unlike the South Moss Beach site, the North Moss Beach site is adjacent to existing residential development and appears to be a more suitable location for the development of a medium-high density affordable housing development.

It is important to note that while none of the four potential Mid-Coast affordable housing sites originally identified in the County's LCP have been developed, approximately 300 affordable units have been constructed nearby in Half Moon Bay over the last 20 years, including 64 very low income senior rental units in the Leslie Garden development. Downtown Half Moon Bay provides a full range of urban services and is therefore suited to support a senior housing development, where many residents are dependent on very limited public transit and/or private shuttle services to gain access to basic services.

Finally, staff also notes that provision of the LCP, Government Code or the Coastal Act allows for development of the South Moss Beach site at a higher density than that density that can feasibly be accommodated on the site in a manner that is in conformity with the certified LCP. In fact, Coastal Act Section 30604(f) makes it clear that density bonuses that are mandatory under the State Government Code Section 65915 for affordable housing developments in areas of the State outside of the Coastal Zone are not required to be granted for development located in the Coastal Zone if the density sought cannot be feasibly accommodated in a manner that is in conformity with the certified LCP or Chapter 3 of the Coastal Act. In addition, the Government Code itself contains provisions similar to Coastal Act Section 30604(f) that expressly state that the State affordable housing policies do not supersede the requirements of the Coastal Act. Effective in 2003, the Legislature added Government Code Section 65915 subsection (m), which expressly states that affordable housing law does not supersede or in any way alter or lessen the effect or application of the California Coastal Act. Pursuant to the above cited State housing policies, density bonuses and other incentives and concessions for affordable housing developments may only be granted for development in the Coastal Zone if the development can be carried out in a manner that is consistent with the policies of Chapter 3 of the Coastal Act and/or the applicable certified LCP.

Motions

The applicable motion for the approval of the LUP amendment with modifications is found on page 6; the applicable motion for denial of the IP amendment with modifications is found on page 7.

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STAFF NOTE

The local government action on the Moss Beach Highlands Housing Project (Application Number 2-SMC-99-202) included both the submittal of the subject amendment 2-MAJ-02 to the San Mateo County certified Local Coastal Program (LCP) and approval of a coastal development permit for the project. The local approval of the CDP was subsequently appealed and is also before the Commission as Item 9a of the May 12, 2004 agenda (Appeal number A-2-SMC-00-031). Staff is recommending that the Commission determine that the appeal raises a substantial

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issue and then deny the proposed project de novo. Because the County's final action approving the CDP for the project preceded Commission certification of the related LCP amendment, the approved development is on its face inconsistent with the certified LCP; the proposed LCP amendment is necessary for the project to go forward because the County-approved CDP does not conform to the site's currently certified policies and zoning. In addition, the proposed LCPA does not include all of the revisions that would be necessary to facilitate the related development currently before the Commission on appeal. Accordingly, staff observes that for the reasons discussed herein, even if the Commission were to certify the requested LCPA, which staff does not recommend, such action would not resolve all of the issues about the local coastal development permit's conformance with the certified LCP.

I. STAFF RECOMMENDATION FOR LUP AMENDMENT

The staff recommends that the Commission deny the amendment to the LUP for the County of San Mateo as submitted.

Denial as Submitted

MOTION: I move that the Commission certify Land Use Plan Amendment 2-MAJ-02 as submitted by San Mateo County.

A. STAFF RECOMMENDATION TO DENY:

Staff recommends a NO vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution to Deny

The Commission hereby denies certification of the Land Use Plan Amendment 2-MAJ-02 as submitted by San Mateo County and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

Approval with Suggested Modifications

MOTION: I move that the Commission certify Land Use Plan Amendment 2-MAJ-02 for San Mateo County if it is modified as suggested in this staff report.

B. STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

Staff recommends a YES vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and

findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Land Use Plan Amendment 2-MAJ-02 for San Mateo County if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

II. STAFF RECOMMENDATION FOR IMPLEMENTATION PROGRAM AMENDMENT

MOTION I: I move that the Commission reject the Implementation Program for San Mateo County as submitted.

A. STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program submitted for San Mateo County and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified land use plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

1.0 AMENDMENT DESCRIPTION

San Mateo County Land Use Plan Policy 3.15(a) identifies three potential affordable housing sites in the Mid-Coast area and Policy 3.15(d) specifies the percentage of low and moderate-income units that must be included with any development of these sites (Exhibit 1). The proposed amendment involves changes to this LUP Policy involving the three potential sites as

well as proposed changes to the IP zoning regulations and associated zoning maps for one of these three potential sites.

As noted above, even if an affordable housing development is otherwise approvable, Policy 3.15(d) also requires a certain percentage of low and moderate-income units be developed on the affordable housing sites. According to the policy, 34% to 50% of the total number of approvable units developed must be for low and moderate-income households. The exact percentage and ratio of low to moderate units depends on the site. The proposed LUP amendment would revise Housing Policy 3.16(b) to authorize the Board of Supervisors to adjust the percentages of low and moderate-income units required by Policy 3.15(d), if it could make the finding that the required percentages threaten the implementation of affordable housing by prohibiting the developer(s) from building when circumstances are uniquely favorable for a limited period of time (i.e. low interest rate financing or public subsidies are available). For example, if low interest rate financing is available for a different mix of low and moderate-income units than that required by Policy 3.15, the Board of Supervisors could alter the percentages found in the policy to meet the criteria for the low interest rate financing.

The proposed change to the IP would rezone the 12.5-acre South Moss Beach site, one of three potential affordable housing sites specified in Policy 3.15, from Affordable Housing/Design Review/Coastal Development (R-3-A/S-5/DR/CD) to Planned Unit Development/ Design Review/Coastal Development (PUD/DR/CD) (Exhibit 2, Exhibit 3 & Exhibit 4). The rezoning would reduce the maximum allowable density from 218 to 128 units.

The proposed amendment would also certify, as part of the IP, a specific site development plan for the 12.5-acre property, as well as site-specific development standards including the number and type of units allowed on site, wetland buffers, height restrictions, and setbacks (Exhibit 5). In addition, the mixture of low and moderate income households proposed as part of the site-specific development plan does not match the percentage required by Policy 3.15 for this site. Instead, the Board of Supervisors in its approval of the site-specific development plan and standards altered the required percentages of low and moderate-income households for the site specified in Policy 3.15 based on its expectation that the proposed amendment to Policy 3.16(b) would be certified by the Commission.

2.0 BACKGROUND

On August 8, 2000, the San Mateo County Board of Supervisors approved LCP Amendment 1-MAJ-00, which consisted of the proposed changes to the County's certified LUP and IP as discussed above. At the same hearing, the County approved a related Coastal Development Permit (CDP) for a mixed use development at the South Moss Beach Highlands designated affordable housing site consisting of 73 affordable senior apartments, a resident manager's unit, a community/recreation building, 55 single-family homes, and one tot-lot playground. The County approved the coastal development permit in accordance with the site-specific plans and standards included in the proposed IP amendment rather than the certified LCP. The Coastal Commission received the County's application for the LCP amendment as well as the notice of final local action on the CDP on August 23, 2000. Subsequently, on September 7, 2000 the Commission received two appeals of the County's approval of the CDP.

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On July 9, 2002, County Board of Supervisors adopted Resolution 65413, which effectively withdrew and resubmitted LCP Amendment 1-MAJ-00 to the Coastal Commission in order to clarify that the County is willing to consider modifications to the LCP amendment as recommended by the Commission (Exhibit 6). On August 23, 2002, Commission staff notified the County that the LCP amendment was incomplete because it lacked substantial materials and information concerning visual resources, stream buffers, California red-legged frogs, raptors, and traffic, and requested that the County provide such information. After receiving the additional materials and information requested, in accordance with the Commission's regulation (14 CCR section 13551 and 13552), the Executive Director determined that the County's resubmitted LCP amendment application (2-MAJ-02) was a complete submittal on October 17, 2003. Pursuant to Section 30512 of the Coastal Act, a major LCP Amendment must be scheduled for public hearing and the Commission must take action within 90 days after the receipt of a complete submittal. The 90th day after receipt of the complete submittal was January 15, 2004. Due to an ongoing staffing shortage, staff was unable to complete its review and prepare a recommendation for final Commission action on this LCP amendment application prior to the January 15, 2003 deadline. Accordingly, the Commission extended the 90-day time limit to act on LCP Amendment 2-MAJ-02 for a period not to exceed one year. The 365th day from the January 15, 2004 deadline by which the Commission was to have acted on the LCP Amendment 2-MAJ-02 is January 13, 2005.

3.0 STANDARD OF REVIEW

To approve the amendments to the Land Use Plan, the Commission must find the LUP, as amended, meets the requirements of and will be in conformity with the policies of Chapter 3 of the Coastal Act. To approve the amendments to the Implementation Plan (IP), the Commission must find that the IP, as amended, will conform with and adequately carry out the policies of the LUP, as modified and certified.

4.0 EFFECTIVENESS OF LCP AMENDMENT

Coastal Act Section 30514(a) states that the local government may amend its certified LCP and implementing ordinances, regulations, and other actions, but until the Commission certifies the amendment, the amendment shall not take effect. In accordance with Section 13551 of the Commission regulations, if the Commission certifies the amendment as submitted, the amendment shall take effect immediately. However, if the Commission certifies the amendment with additional modifications, the local government must subsequently approve the modifications suggested by the Commission, and the Executive Director in turn must confirm that the local government took all necessary actions before the amendment becomes effective.

Additional Information

If you have any questions or need additional information regarding the proposed amendment, please contact Sarah Borchelt at (415) 904-5260.

PART I: LUP AMENDMENT

5.0 STANDARD OF REVIEW FOR LUP AMENDMENT

Section 30514(b) of the Coastal Act states that “[a]ny proposed amendments to a certified local coastal program shall be submitted to, and processed by, the commission in accordance with the applicable procedures and time limits specified in Sections 30512 and 30513 [except that no substantial issue determination is required].”

Sections 30512(c) states that “[t]he Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 [of the Coastal Act].” The applicable standard of review for the proposed LUP amendment is therefore the policies of Chapter 3 of the Coastal Act.

6.0 TEXT OF THE PROPOSED AMENDMENT

The proposed change to LUP Policy 3.16(b) is as follows (additions to the policy identified with underlines, deletions with ~~strikethroughs~~):

Allow the County Board of Supervisors to increase the number of affordable housing units permitted per year by Policy 3.16(a), and/or adjust the percentage of low or moderate income units required by Policy 3.15(d), if the Board ~~if they~~ makes the finding that the above phasing and/or affordability requirements threatens the implementation of affordable housing on a designated site by prohibiting the developer(s) from building when circumstances are uniquely favorable for a limited period of time (i.e., low interest rate financing or public subsidies are available).

6.1 Suggested Modifications

In order to maintain conformance between the San Mateo County LUP and the Coastal Act, the proposed amendment is suggested to be modified as follows. The basis for the following suggested modifications is specifically described in the following findings of this report. Additions to the proposed amendment are identified with underlines, deletions with ~~strikethroughs~~.

6.1.1 LUP Section 3.15: Designated Affordable Housing Sites

a. Designate the following as potential sites where affordable housing would be feasibly provided when residential development occurs:

- (1) The 11-acre site in North Moss Beach.
- (2) The 12.5-acre site northeast of Etheldore Street in South Moss Beach.
- (3) The 6-acre North El Granada site.

b. Designate these sites Medium High Density to incorporate a density bonus within the land use designation, if resulting development is consistent with the certified LCP standards.

c. Rezone the designated sites or other appropriate sites within the urban boundary to the Planned Unit Development (PUD) zone to allow flexible residential development standards, when appropriate in conjunction with development plan approval.

d. Evaluate proposals to develop the designated or other appropriate sites according to the following criteria:

(1) For the total 11-acre North Moss Beach site, development must help meet LCP housing objectives by meeting the following criteria:

(a) Twenty-one percent (21%) of the total units constructed on the site are reserved for low-income households.

(b) In addition to the required low-income units, fourteen percent (14%) of the total units constructed are reserved for moderate-income households.

(2) For the other designated sites, development must help meet LCP housing objectives by meeting the following criteria:

(a) Thirty percent (30%) of the total units constructed on a site are reserved for low-income households.

(b) In addition to the required low-income units, twenty percent (20%) of the total units constructed are reserved for moderate-income households.

(3) Development must comply with all of the regulations established for Structural and Community Features (Urban), as established in the Visual Resources Component.

(4) Require the provision of amenities including, but not limited to, landscaping and recreation facilities.

(5) Encourage the provision of community services, such as day care centers.

6.1.2 LUP Section 3.19: Grant Density Bonuses for the Development of Affordable Housing

In accordance with State Government Code Section 65915, or any successor statute, grant a density bonus of 25% and other incentive(s) for the development of new housing in the urban area if a developer agrees to construct: (a) 10% of the housing units for very low-income households, or (b) 20% of the housing units for lower-income households, or (c) 50% of the housing units for senior households only if all development is consistent with the certified LCP. Also, grant a supplemental density bonus if a development exceeds the minimum requirements stated above, or provides a percentage of the total units for large families or disabled households only if all development is consistent with the certified LCP.

7.0 FINDINGS AND DECLARATIONS TO DENY THE LUP AMENDMENT AS SUBMITTED AND APPROVED THE LUP AMENDMENT AS MODIFIED

The Commission hereby finds and declares:

7.1 LUP Amendment Description

The housing component of the San Mateo County LCP includes various policies that address the kind, location, and intensity of affordable housing within the Mid-Coast region. LUP Policy 3.15(a) specifically identifies three potential affordable housing sites in the urban Mid-Coast consisting of: (1) an 11-acre property in North Moss Beach; (2) a 6-acre area in North El Granada; and (3) a 12.5-acre parcel northeast of Etheldore Street in South Moss Beach (Exhibit 1). LUP Policy 3.15(d) also establishes affordability criteria for these sites, which includes the requirement that any development of the three sites include certain percentages of low and moderate-income units. Prior to 1985, Policy 3.15 required that 50% of the total units constructed on each site be reserved for affordable housing (30% low-income households and 20% moderate-income households). In 1986 the Commission certified a LCP amendment, which reduced the percentage of affordable units required for the North Moss Beach site to 21% low-income households and 14% moderate-income households. The 30% low-income and 20% moderate-income household requirement for the South Moss Beach and the North El Granada sites remained unchanged by the 1986 LCP amendment.

In addition to specifying the percentage of affordable housing on each site, the LCP limits the number of units that can be developed per year. LCP Policy 3.16(a) limits the construction of affordable housing units to 60 per year. Under Policy 3.16(b), this limit can be raised if the Board of Supervisors finds that the 60 unit per year phasing requirement threatens the implementation of affordable housing on a designated site by prohibiting the developer(s) from building when circumstances are uniquely favorable for a limited period of time (i.e. low interest rate financing or public subsidies are available).

The proposed LCP amendment would modify Policy 3.16(b) so that in addition to raising the 60 units per year limit, the Board of Supervisors could adjust the percentages of low and moderate-income households specified by LUP Policy 3.15 for the three designated sites. The proposed change is as follows:

Allow the County Board of Supervisors to increase the number of affordable housing units permitted per year by Policy 3.16(a), and/or adjust the percentage of low or moderate income units required by Policy 3.15(d), if the Board if they makes the finding that the above phasing and/or affordability requirements threatens the implementation of affordable housing on a designated site by prohibiting the developer(s) from building when circumstances are uniquely favorable for a limited period of time (i.e., low interest rate financing or public subsidies are available).

As modified, the Board of Supervisors would be authorized to adjust the percentages, if it could make the finding that affordability requirements threaten the implementation of affordable housing for a designated site by prohibiting the developer(s) from building when circumstances

are uniquely favorable for a limited period of time. A favorable circumstance, for example, might be that funding is available through the State Tax Credit Financing Program. The Tax Credit Financing Program targets households earning 30% to 60% of median income, which are considered “low-income” per the County’s and the U.S. department of Housing and Urban Development’s (HUD) definition. Funding from the Tax Credit Financing Program cannot be used to support housing construction for moderate-income households. Thus, housing projects on the affordable housing sites may be unable to use funding from the program due to the requirement that these sites include units for moderate-income households. Amending Policy 3.16(d) would allow the Board to adjust the required percentage of low and moderate-income units found in Policy 3.15(d) so that the sites could be developed in a way that meets the criteria of the State Tax Credit Financing Program. Thus, by amending Policy 3.16(b), developers would not be prohibited from building when funding is available because the Board of Supervisors would have the ability to adjust the required percentage of low or moderate-income housing to meet the criteria required in those circumstances.

7.2 Density Bonus Incentive

Coastal Act Section 30250 states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Government Code §65915(m) states:

Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30,000) of the Public Resources Code).

As proposed, the LUP amendment is intended to allow the Board of Supervisors to alter the percentage of low moderate income units required as part of any development of designated affordable housing sites under LUP Policy 3.15(d). Until 1982, one of the Chapter 3 policies of the Coastal Act, Section 30213, provided for the protection and encouragement of low and moderate-income housing. Prior to that year, in order for the Commission to find that an LCP conformed with Chapter 3 policies, the Commission was required to evaluate policies and ordinances relating to how the local government intended to provide for low and moderate income housing. Since the Commission certified the San Mateo County LCP in 1980, the LCP includes housing policies protecting existing, and encouraging and providing for affordable housing consistent with Section 30213. Effective 1982, the California Legislature amended the Coastal Act to delete Section 30213. While removal of Section 30213 precludes the Commission from evaluating how low and moderate income housing is protected, encouraged or feasibly provided by a local government through its LCP, it does not change the Coastal Act requirement that local governments develop policies and plans that ensure development in the coastal zone conforms with the Chapter 3 policies of the Coastal Act. As such, changing the amount of affordable housing required by Policy 3.15(d), as the proposed LUP amendment

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would allow, does not raise issues of conformity under Chapter 3 regarding the fact that it could result in a decrease of the total number of affordable units on the designated sites. Nevertheless, the proposed amendment could affect the overall density of the three designated affordable housing sites through density bonus provisions of the LCP and it does not specify how increased density on the sites would be implemented consistent with the Chapter 3 policies of the Coastal Act.

The San Mateo County LCP includes two housing policies that allow density bonuses for developments which incorporate affordable housing. One density bonus, currently allowable only in the three potential affordable housing sites, is found in LCP Policy 3.15(b) and states the following:

Designate these sites Medium High Density to incorporate a density bonus within the land use designation.

The purpose of Policy 3.15(b) is to allow for a density bonus at the three potential affordable housing sites by designating them as medium high density. The medium high density is reflected in both the land use designation and the R-3-A/S-5 zoning, which allows a maximum potential density of 17.4 dwelling units per acre.

Another density bonus is provided by Policy 3.19, which states:

In accordance with State Government Code Section 65915, or any successor statute, grant a density bonus of 25% and other incentive(s) for the development of new housing in the urban area if a developer agrees to construct: (a) 10% of the housing units for very low-income households, or (b) 20% of the housing units for lower-income households, or (c) 50% of the housing units for senior households. Also, grant a supplemental density bonus if a development exceeds the minimum requirements stated above, or provides a percentage of the total units for large families or disabled households.

A density bonus under Policy 3.19 is available to any site as long as it meets the criteria outlined in the policy. The LCP was amended in 1996 to include Policy 3.19, which was created to reflect 1992 changes to Government Code §65915, which requires local governments to provide residential density increases to developers who agree to develop low-income and senior housing. The statute requires that local governments grant a density bonus of “at least 25 percent” to developers who agree to make a specified percentage of new units affordable to low income or senior households and at least one other incentive, in addition to the density bonus, unless the local government finds that the additional incentive is not necessary to allow for affordable housing as is required in Policy 3.19.

If the Board of Supervisors altered the required percentage of affordable units on the designated sites through the proposed Policy 3.16(b), as modified, a development project on the designated sites could qualify for a density bonus under Policy 3.19 in addition to that which is already provided in the Policy 3.15(b). For example, the Board of Supervisors altered the required percentages found in Policy 3.15(d) for the South Moss Beach site so that it could be developed

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with 50% senior housing. According to Policy 3.19, the development could potentially qualify for an additional density bonus since it would include 50% senior housing.

Coastal Act Section 30250 calls for development to be designed and located such that there are adequate public services, and that there will be no adverse impacts on coastal resources (e.g. environmentally sensitive habitat areas, scenic resources, etc.). Neither the County's LCP nor the proposed LCP amendment indicate how an additional density bonus under Policy 3.19 would be applied consistent with Section 30250. Effective 2003, the Legislature added Government Code Section §65915 subsection (m), which expressly states that affordable housing law does not supersede or alter application of the Coastal Act. Subsection (m) states:

Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30,000) of the Public Resources Code).

According to Government Code §65915(m), implementation of affordable housing under the code shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act. As such, implementation of a density bonus that may result from changing the ratio of low and market rate units required on one of the three potential affordable housing sites must be implemented consistent with the Coastal Act.

The LUP does not expressly state that implementation of a density bonus under either Policies 3.15 or 3.19 may occur only if it does not in any way conflict or violate the LCP. As a result, it is unclear whether the proposed LCP amendment may allow for application of density increases and incentives in a manner that does not conform with the policies of Chapter 3 of the Coastal Act. Because the San Mateo County proposed LCP amendment fails to include provisions that insure that density bonus requirements would be implemented consistent with the requirements of the Coastal Act, the Commission finds that the proposed amendment does not conform with the policies of Chapter 3 of the Coastal Act.

Consistent with the Coastal Act, any density bonus for affordable housing granted through Policy 3.15 or 3.19, may only be granted if the resulting development is consistent with the certified LCP. As such, the Commission has suggested modifications to the LUP that will conform the LUP with the Coastal Act as well as the Government Code. The suggested modifications would alter Policies 3.15 and 3.19 to incorporate language that would clarify that development resulting from density bonuses must conform to all LCP standards. These modifications reflect the newly enacted requirements of Government Code §65915(m) that nothing in Government Code §65915 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act and to ensure that development is carried out consistent with Section 30250. With these modifications, the proposed LCP amendment would clarify how the requirements of the density bonuses provided in Policy 3.15 and 3.19 complies with requirements of the Coastal Act. Accordingly, if the modifications are adopted, the proposed LUP amendment will meet the requirements of and conform with the policies of Chapter 3 of the Coastal Act and fully implement the land use plan as proposed to be amended.

PART II: IMPLEMENTATION PROGRAM AMENDMENT

8.0 STANDARD OF REVIEW FOR IMPLEMENTATION PROGRAM AMENDMENT

The proposed amendment to the LCP Implementation Program includes rezoning the South Moss Beach site from Affordable Housing/Design Review/Coastal Development (R-3-A/S-15/DR/CD) to Planned Unit Development/Design Review/Coastal Development (PUD/DR/CD) (Exhibit 4). Pursuant to County Zoning Code Section 6191(a), enactment of a PUD zone requires adoption of a precise development plan for the subject area. Accordingly, the proposed IP amendment includes adoption of the Moss Beach Highlands Precise Development Plan (Exhibit 5). In addition, the proposed IP amendment includes site-specific development standards for review of development proposed at the South Moss Beach site.

Sections 30513 of the Coastal Act states that the “[t]he Commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan.”

The provisions of the certified land use plan are thus the standard of review for implementing zoning ordinances. To approve the amendments to the Implementation Program (IP), the Commission must find the IP, as amended, will conform with and adequately carry out the policies of the LUP.

9.0 STAFF RECOMMENDATION FOR IMPLEMENTATION PROGRAM AMENDMENT

MOTION I: I move that the Commission reject the Implementation Program for San Mateo County as submitted.

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program submitted for San Mateo County and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified land use plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

10.0 FINDINGS TO DENY IMPLEMENTATION PROGRAM AMENDMENT

The Commission hereby finds and declares:

10.1 Background

Below is a brief chronology of significant events related to the IP amendment:

- 1981**
- Coastal Commission certifies the San Mateo County LCP, which identifies four potential affordable housing sites in the Mid-Coast with a maximum potential allowable at medium high-density as follows:
 - North Moss Beach 11 acres
 - South Moss Beach 6 acres
 - El Granada 18 acres
 - Miramar 40 acres
 - LCP is amended to reduce number of potential affordable housing sites to three and change the total acreage as follows:
 - increase the South Moss Beach site from 6 to 12.5 acres and expand the urban rural boundary to include the additional acreage
 - decrease the El Granada site from 18 to 6 acres
 - delete the Miramar site
- 1982**
- Legislature amends Coastal Act to delete affordable housing requirements.
- 1985**
- SMC Board of Supervisors approves a 218 condominium and apartment unit Concept Plan for the South Moss Beach site.
- 1986**
- Caltrans abandons original Devil's Slide freeway bypass alignment through Moss Beach, in favor of Martini Creek alignment.
 - SMC Board of Supervisors submits a LCP amendment to rezone North Moss Beach site from R-1/S-17/DR and R-3/S-5/DR to PUD.
 - Commission approves rezoning of North Moss Beach site for Farallon Vista Development with 96-market rate and 52 affordable units.
- 1991**
- SMC Board of Supervisors approves a CDP for the subdivision of the 12.5 acre South Moss Beach Site from adjacent 3,000-acre parcel.
- 1996**
- Voters of San Mateo County pass Measure T, Devil's Slide Tunnel Initiative. Martini Creek freeway alignment abandoned.
- 2000**
- SMC Board of Supervisors approves CDP and rezoning for Moss Beach Highlands development.
- 2003**
- Peninsula Open Space Trust acquires 4,262-acre Rancho Corral de

Tierra surrounding Moss Beach and Montara directly adjacent to the South Moss Beach site.

- 2003** - Legislature amends Government Code Section 65915 to expressly state that affordable housing law does not supersede or alter application of the Coastal Act. It states:

Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30,000) of the Public Resources Code).

As discussed in Section 7.1, LUP Policies 3.15(a) designates three potential affordable housing sites within the Mid-Coast region, including the South Moss Beach site. As noted above, as originally certified, the LCP identified four potential affordable housing sites. Since certification of the LCP, the locations and sizes of the designated sites have changed as information regarding the ability to provide affordable housing on the various sites has evolved. For example, in 1981, the County amended its LCP to eliminate the Miramar site, which consisted of approximately 150 parcels in varying sizes and ownerships, because it was determined, among other factors, that developing medium to large-scale affordable housing projects on a collection of small parcels in scattered ownership would be too difficult.

Policy 3.15(b) designates these potential affordable housing sites as medium-high density and Policy 3.15(c) encourages the rezoning of the designated sites to the Planned Unit Development (PUD) zone to allow flexible residential development standards, when appropriate in conjunction with a specific development plan approval. As such, the County submitted an IP amendment for Commission certification, which would rezone the South Moss Beach designated affordable housing site to PUD and certify a Precise Development Plan for the site.

10.2 Description of Site and Adjacent Land

The development site that is the subject of the proposed zoning change is a 12.5-acre undeveloped parcel, known as South Moss Beach, located at the western edge of San Mateo County in the unincorporated community of Moss Beach (Exhibits 2, 3, 15 & 16). Regional access to the site is available via Highway 1 and State Route 92 and local access is available via Etheldore Street which connects with Highway 1 at two locations, approximately one quarter-mile south of the site and one half mile north of site. The incorporated City of Half Moon Bay is about 6 miles south of the site.

The site is just within the urban portion of the urban/rural boundary at the south end of Moss Beach east of Highway 1 (Exhibit 1). Etheldore Street, a two lane, approximately 30 foot-wide road providing access to the neighboring residential area from Highway 1, borders the property to the west. The street lacks sidewalks, road shoulders, drainage improvements (drainage ditches on either side of the street collect and channel runoff), and in some locations, pavement (Exhibit 8). Across Etheldore Street is an approximately 7-acre vacant parcel owned by San Mateo

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County and designated as open-space. The parcel consists of Class II prime agricultural soils and is covered with grasses and trees.

The northern edge of the site abuts the Seton Medical Center Coastsides and undeveloped lands owned by the Roman Catholic Archdiocese. The Seton Medical Center Coastsides is a private medical facility that provides physical, occupational and speech therapies, radiology/mammography, and emergency services to the surrounding community and year-round extended care to approximately 116 inpatient residents. A cypress grove screens the Medical Center from the South Moss Beach site and from Highway 1. The remaining northern edge of the South Moss Beach site, approximately 660 feet, abut undeveloped parcel owned by the Roman Catholic Archdiocese, which is designated as very low density residential (Exhibit 17).

The eastern and southern edges of the South Moss Beach site are bordered by the Peninsula Open Space Trust (POST) Rancho Corral de Tierra acquisition that stretches east, south, and north of the site for 4,262-acres (Exhibit 7). The POST land, which includes beautiful, scenic flatlands, uplands, and two main peaks of Montara Mountain (Montara Knob and South Peak), has over four miles of its boundaries contiguous to public lands, consisting of McNee Ranch (part of Montara State Beach Park), San Pedro Valley County Park, the San Francisco Water Department's Peninsula Watershed, and scenic and recreation easements of the Golden Gate National Recreation Area. As such, the acquisition of the Rancho created approximately 6,700 adjoining acres of publicly accessible land for recreational uses. POST's purchase of the property also preserved productive agricultural land. At present, sections of the valleys and lowland areas, adjacent to Highway 1, support approximately 230 acres of row cropping (Exhibits 17 & 18). In addition to agricultural operations, four private horse stables, two of which are located just south of the South Moss Beach site, lease portions of the property from POST. The remaining acreage is open space preserved to protect habitat and/or recreational activities such as hiking, biking, and horseback riding. POST's ultimate goal is to transfer Rancho Corral de Tierra to State or Federal Park ownership (POST 2004).

Although located within the urban portion of the urban/rural boundary, due to the location of the property on the edge of the boundary, as discussed above, most of the adjacent land uses surrounding the site are rural. The nearest residential development is located within the urban boundary approximately 700 feet north and northwest of the site. The residential neighborhoods are designated as medium density residential (6.1 to 8.7 dwelling units per acre) and zoned as R-1/S-17/DR (minimum parcel size 5000 square feet). Much of the residential development is screened from Highway 1 and open space lands by existing trees and vegetation (Exhibits 15, 16 & 24).

The site is zoned Affordable Housing/Design Review/Coastal Development (R-3-A/S-5/DR/CD) and is comprised of a 4.5-acre flat lowland area that abuts Etheldore Street, steep hill with west- and south-facing slopes, and a 6.5-acre flat hilltop. The hilltop eventually slopes downward in an easterly direction towards a tributary ravine and a southerly direction toward San Vicente Creek located approximately 80 feet at the closest to 350 feet at the farthest from the site's southern boundary. Site elevations range from 77 feet to 179 feet above mean sea level (msl). The site is predominantly grassland with small pockets of northern coastal scrub and scattered pine and cypress trees. In addition, a 0.6-acre stand of Monterey cypress runs along the northern edge of the parcel near the adjacent Seton Medical Center. On the uppermost eastern border of the property is a .10-acre wetland, located partially on and partially off the site. A 0.025-acre

wetland associated with a drainage ditch is located at the base of the site adjacent to Etheldore Street (Exhibit 23). The site was rezoned from agriculture to medium-high density residential in 1980 and 1981. The only developed features of the site are a well in the northwest corner of the site and a dirt road/trail that crosses the site in a southwest/northeast direction, connecting Etheldore Street with the parking lot of the Seaton Medical Center.

10.3 IP Amendment Description

The County proposes to amend the IP to (1) rezone the 12.5-acre South Moss Beach site Affordable Housing/Design Review/Coastal Development (R-3-A/S-5/DR/CD) to Planned Unit Development/Design Review/Coastal Development (PUD/DR/CD); (2) certify a Precise Development Plan for the site; and (3) certify site-specific standards for the development that was also approved by the County in its August 8, 2000 and July 9, 2002 actions.

Rezone

The South Moss Beach site, consisting of APN 037-320-270, is currently zoned Affordable Housing (R-3-A/S-5/D-R), which allows for low and moderate income, single and multiple family residential development. The County proposes to change the site's R-3-A/S-5/D-R zoning designation to Planned Unit Development/Design Review/Coastal Development (PUD/DR/CD) to accommodate the multiple family and single-family unit densities of the approved Moss Beach Highlands Project and to allow flexibility in setbacks, parking and other zoning standards (Exhibit 4). The proposed rezoning would reduce the maximum limit of potential units allowed on the property from 218 under the current zoning to 128 under the proposed zoning.

Precise Development Plan

The PUD zoning District requires that a precise development plan be certified at the time of the zoning change. The County proposes a Precise Development Plan for a mixed residential use development as part of the IP amendment. The plan would divide the 12.5-acre parcel into 59 parcels and would plan for the development of 73 affordable senior apartments, a resident manager's unit, a community/recreation building, 55 single-family homes, a storm water retention pond and a tot-lot playground. The parcels would be divided as follows: (1) 55 lots for market rate homes; (2) one lot for the senior apartments, resident manager's unit, and community/recreation building; (3) one lot for the tot-lot playground; (4) one lot for a retention pond; and (5) one lot to protect a wetland located partially on site.

The senior housing apartments, recreation building, and associated parking lots would be located on an approximately 2-acre portion of the lower terrace adjacent to Etheldore Street. Access to the senior housing complex would be directly from Etheldore Street via a driveway to a central parking area. A second emergency access road would also connect to Etheldore Street from the parking lot.

The single-family homes would be primarily located on the 6.5-acre upper terrace; however, 13 units would be located in the lowland area and would step up the hillside to the top. The proposed lots would range in size from 3,000 to 12,000 square feet and the homes (both single and two-story) would range from approximately 2,200 to 2,600 square feet (excluding garages). Each single-family lot would include off street parking for four vehicles (i.e., a two-car garage

and a two-car driveway). Lot width would range from 43 feet to 60 feet and lot depth would range from 70 to 160 feet. Typical setbacks include the following: front yard 11 feet, garage 18 feet, side yard 4 feet, and rear yard 15 feet. An approximately 880-foot long and 20-foot wide road would provide access from Etheldore Street to the top of the site.

A total of approximately 1.5 acres of open space and .05 acres of public park would be provided within the 12.5-acre site. The open space acreage consists primarily of the slope between the upper and lower terraces and the existing cypress tree grove consisting of 28 trees in the northern portion of the site. Under the approved development plan, 11 trees would be removed. In addition, the approved subdivision creates a separate parcel that encompasses the wetland that is found partially on the eastern portion of the site and a 100-foot wetland buffer. No development would be located within the wetland parcel.

Site-specific Standards

The proposed LUP amendment also includes the following site-specific development standards (full text found in Exhibit 6):

- (1) require development to conform to the Precise Development Plan as approved by the Board of Supervisors and on file with the County Planning Division;
- (2) limit development to 73 affordable senior apartments including one resident manager's unit, one community /recreation building, 55 single-family homes, and one tot-lot playground (no second units are allowed);
- (3) require that parcel encompassing the wetland buffer zone and sloped area behind the senior apartments remain as undeveloped open space;
- (4) require that the affordable senior apartments and the single-family units be constructed simultaneously;
- (5) limit the height of any development to those shown on the approved development plans and none shall exceed 28 feet in height;
- (6) require that setbacks conform to the approved development plan and tentative map (generally front, side, and rear yard setbacks of 11, 4, and 15 feet respectively),
- (7) require that lot coverage, maximum floor areas, parking, landscaping, exterior design of structures, and signage and exterior lighting conform to the approved development plan and tentative map;
- (8) require the project sponsor to file a "Notice of proposed Construction or alteration" with the FAA Western-Pacific regional offices and that the developer shall grant an navigation easement over the project site to the County of San Mateo , as the proprietor of the Half Moon Bay Airport, to (a) provide adequate disclosure to future occupants of the development, regarding the proximity of each dwelling to the Half Moon Bay Airport of potential impacts related to airport/aircraft operations, and (b) to protect the airspace in the vicinity or the airport for the safe passage of aircraft; and
- (9) require stair lifts to be installed for second story access for the affordable senior apartments and specify how they will be maintained.

As noted above, according to Sections 30513 of the Coastal Act, the provisions of the certified LUP are the standard of review for implementing zoning ordinances. To approve the amendments to the IP, the Commission must find the IP, as amended, will conform with and adequately carry out the policies of the LUP, as modified and certified. Thus, it is necessary to

evaluate the proposed zoning change, precise development plan, and site-specific standards for consistency with the certified LUP.

10.4 Hazards

The Commission denies the IP amendment because the proposed precise development plan does not conform to the LUP policies concerning hazards.

10.4.1 Issue Summary

The San Mateo County LCP contains policies intended to protect development from geologic hazards, including Policy 9.18(a), which prohibits development on 30% or greater slopes unless no alternatives exist. Although the South Moss Beach Site contains two relatively flat areas suitable for development pursuant to this policy, the Precise Development Plan as submitted allows for and includes substantial development on slopes of 30% or greater, in conflict with the hazard protection policies of the LUP, and therefore cannot be approved as submitted. Therefore, the proposed IP amendment must be denied.

10.4.2 LCP Standards

LUP Policy 9.18(a) Regulation of Development on 30% or Steeper Slopes provides:

Prohibit, unless no alternatives exist, development (including land divisions which would create parcels exclusively) on slopes of 30% or greater. If no alternatives exist, require engineering geologic reports to enable minimizing of hazards.

Although the Precise Development Plan includes development on slopes 30% or steeper, no analysis or findings concerning conformity of the Precise Development Plan with LUP Policy 9.18(a) are contained in any of the County staff reports or the findings of the County Planning Commission or Board of Supervisors. According to the County, apparently the issue was not fully considered (see Exhibit 11).

10.4.3 Site Topography

The South Moss Beach site is located on the hilly terrain that forms the foothills at the western base of Montara Mountain. Steep slopes traverse the center of the site in a generally north/south direction while the upper and lower terrace portions of the parcel are relatively level (Exhibit 15). The County and applicant have each analyzed the topography of the parcel and generated maps depicting areas with slopes of 30% or greater concentrated in the central portion of the site; however, the extent and exact locations of the steep slopes are depicted differently on each map (Exhibits 12 through 14).

The County staff reviewed the site topography twice and produced two slope maps. The first, prepared in March of 2000, is depicted in Exhibit 13, and shows the entire middle section of the site having slopes of 30% or greater. The second map is depicted in Exhibit 14, and was completed in March of 2004 subsequent to the submittal of the LCP amendment. Exhibit 14 also indicates the presence of 30% or greater slopes within the central portion of the parcel; however, a section approximately 100 feet wide in the middle portion of the property is shown with a gradient less than 30%. This is the principal map evaluated by Commission staff in its own analysis of the site topography and slope.

The applicant's map, completed in February of 2004, is depicted in Exhibit 12, and was also prepared subsequent to the submittal of the LCP amendment. Exhibit 12 is similar to the County's first map (Exhibit 13) and depicts 30% or greater slopes stretching the entire width of the middle portion of the site, effectively separating the relatively flat upper and lower terrace portions of the parcel. The area depicted as having greater than 30% slopes is somewhat larger and shaped differently than the area shown in Exhibit 13, both in the middle part of the property, and at the southeast corner where another smaller area of steep slopes is located.

The Commission's mapping staff reviewed each of the maps and topography of the site.

Exhibit 13

The County staff's first map raises several questions. First, there is no source cited for the slope determination work, which appears to have possibly been done using a 20-foot elevation increment, even though the map depicts two-foot contours. This methodology would tend to give a more generalized depiction of steep slopes in the area. Secondly, there may also be a shift or offset in the position of the polygons that represent the areas of steep slopes. Without knowing how the map was created it is not possible to comment specifically, but in general it is important to note that the merging of digital map boundary files sometimes produces positional errors in the overlay process that look like this. If this map was produced digitally, it may have some uncorrected errors. The Commission staff did not assign a high accuracy to this map, and did not use it to evaluate the topography of the site.

Exhibit 14

The County staff's second map was done in March of 2004 using the vesting tentative map as a base map. Although again there is no source cited for the steep slopes (shown in red), the work appears to have been done using a standard methodology (and a two-foot elevation increment) and shows a more detailed view of the steep terrain on the property. The work was also done directly on the large-scale topographic base map (scale 1 inch equals 40 feet) so there is no offset effect present as with Exhibit 13. This is the base map used by Commission staff to analyze the location of steep slopes on the site.

Commission staff also used standard methodology applied to the Exhibit 14 base map to evaluate the topography and slope of the site. The map used for the analytical work was printed at the original scale of 1 inch equals 40 feet and depicts the topography using a contour interval of two feet. The results of the Commission staff's analysis are similar to those depicted by the County staff; however, the Commission staff did identify minor additions to the areas of steep slopes found in the central portion of the site. These additional areas of greater than 30% slope are depicted in blue in Exhibit 14. The portion of the central area with slopes *less than* 30% appears to be roughly 20 feet narrower than depicted by the County.

Exhibit 12

The applicant's map was completed in February of 2004, and was also prepared subsequent to the submittal of the LCP amendment. Exhibit 12 is similar to the County staff's first map (Exhibit 13) and depicts 30% or greater slopes stretching the entire width of the middle portion of the site, effectively separating the relatively flat upper and lower portions of the parcel. Once

again, there is no source cited for the slope determination work, which appears to have possibly been done using a 10 foot elevation increment, even though the map depicts two-foot contours. This methodology would tend to give a somewhat generalized depiction of steep slopes in the area. The area depicted as having greater than 30% slopes is somewhat larger and shaped differently than the area shown in Exhibit 13, both in the middle part of the property, and at the southeast corner where another smaller area of steep slopes is located. The work was also done directly on a topographic base map (scale 1 inch equals 60 feet) so there is no offset effect present as with Exhibit 13. This map, while more accurate than Exhibit 13, is less accurate than Exhibit 14, and the Commission staff did not rely on it to evaluate the topography of the site.

Summary of Slope Analysis

Although Commission staff's interpretation differs from that of the County's staff, the two views of the same data are relatively similar. Because every map is a representation of conditions on the ground, there are unavoidable variations in the locations of the features and symbols depicted, and the "positional accuracy" of contour lines is no exception. In addition, the vertical values of elevation represented by contour lines are also subject to some variation. The use of a topographic map of any scale or contour interval to map steep slopes will invariably include some degree of generalization, and may result in the omission of some areas in the intended class or category of slope. As such, the Commission accepts the most inclusive depiction of steep slopes depicted on the most accurate large-scale topographic base map available. Such map in this case is the Commission staff's expanded version of the County's work represented in Exhibit 14. It is also important to note that additional steep slopes of 30% or greater could be located in adjacent areas. As discussed below, the precise development plan would authorize development on slopes 30% or greater.

10.4.4 Development on Steep Slopes

The Precise Development Plan provides for the development of a total of 33 detached market-rate single-family residences on the upper portion of the site and 73 affordable dwelling units in four apartment buildings, 12 detached market-rate single-family residences, and a community recreation building on the lower portion of the site. As shown on Exhibit 14, the plan would allow development, including grading on Lots 12, 13, 14, and 47 and construction of single-family homes on Lots 13 and 14, all of which would be located on areas of the site with 30% or greater slopes. As such, the Precise Development Plan as submitted is inconsistent with LUP Policy 9.18(a).

According to a letter dated March 24, 2004, from County Project Planner, Lisa Aozasa, the County used Slope Map A for its review of the Precise Development Plan (Exhibit 11). Slope Map A depicts the entire middle portion of the site, from elevations of 120 to 135 msl, as consisting of slopes with 30% or greater inclines. In her letter, Ms. Aozasa explains:

We concluded that the project complied with Policy 9.18 since the proposed development largely avoided the areas of 30% slope. Instead, development is concentrated on the upper and lower "terraces" of the site. Further, we concluded that there was no reasonable alternative for developing the site at medium-high density (8.8 to 17.4 du/ac) as prescribed by LCP Policy 3.15, which would completely avoid development on slopes of 30% or steeper.

As described in the attached memorandum from County Council (Attachment C), it appears from the legislative history of Policy 3.15, which governs the designated housing sites, that it was envisioned that the upper portion of the site would be developed. In order to access the upper level of the site, it is necessary to construct a road that crosses through the area of 30% slope.

Although, as noted above, neither the County's staff reports nor the findings of the Planning Commission or Board of Supervisors contain this analysis, County Planning staff suggests in its March 24, 2004 letter that the Precise Development Plan may be found consistent with LUP Policy 9.18(a) because development on the steep slopes is necessary to access the upper portion of the site and development of the upper portion of the site is necessary to achieve the density of development allowable under the LCP land use plan and zoning designations for the site. This position seems to suggest that because the land use plan and zoning designations potentially allow for development of the site up to medium-high density, development at such density is required even if it cannot feasibly be accommodated in a manner that is in conformity with the LCP.

There are two fundamental problems with the County staff's position concerning Policy 9.18(a). First, no alternative would only exist if the site could not be developed at all without developing on slopes 30% or greater; a property owner is not entitled to a specific level of density. Since the property has yet to be subdivided, alternatives are clearly available which would allow for a precise development plan consistent with the hazard policies of the certified LCP. Second, as discussed above in Section 10.4.3, the slope analysis upon which the County staff based its opinion that access to the upper portion of the site *required* development on 30% or steeper slopes was flawed. It appears that development of the upper portion of the site can feasibly be accomplished without development on the steep slopes.

Third, whether or not access to the upper portion of the site would require construction of a road on site on the steep slopes, development of the upper portion of the site is only allowable if it can be accommodated in a manner that is in conformity with the LCP. LCP land use and zoning designations do not supersede the requirement that any development of the site must comply with the resource protection policies of the certified LCP. LCP land use plan and zoning designations establish the kind, location, intensity, and density of development potentially allowable for a given site. However, they are not an entitlement to develop at a particular density or intensity and they do not override the resource protection policies of the certified LCP. Land use and zoning designations do not authorize development that would conflict with LCP resource protection policies. The density specified under a given zoning district is considered as the *maximum potentially* allowable density of development that may be permitted when the development is determined to be consistent with all policies of the LCP.

LUP Policy 3.15 identifies that the South Moss Beach site as a *potential* affordable housing development site. The site is zoned to allow for a density bonus of up to 17.4 du/ac to encourage affordable housing development. Development of the site at this maximum potentially allowable density would result in medium-high density development of the entire 12.5-acre site. While the LCP *encourages* development of affordable housing by allowing development of the site at a

higher density typically allowed in the Mid-Coast, the LCP neither requires the South Moss Beach site to be developed as an affordable housing site nor does the LCP require development of the site at the maximum allowable density. No provision of the LCP allows development at a higher density than that density that can feasibly be accommodated on the site in a manner that is in conformity with the certified LCP.

10.4.5 Alternatives Analysis

10.4.5.1 Onsite Access Road Alternative

As shown in Exhibit 14, an approximately 80-foot-wide section of the hillside connecting the upper and lower portions of the site exists where slopes are less than 30%. The second map generated by the County staff shown in Exhibit 14, although slightly different from Commission staff's analysis also shown on Exhibit 14, depicts the same general area of slopes less than 30%. Thus, it appears that the upper portion of the site can be accessed in a manner consistent with Policy 9.18(a).

The County staff opine that development specified in the Precise Development Plan would be allowable under LUP Policy 9.18(a) because County staff believe no alternative exists that would allow medium-high density development of the site as provided under the certified LCP. However, as stated above, the site has not yet been subdivided and it is not entitled to be developed at a medium-high density. In addition, in order to determine the level of density up to which the site can feasibly be developed in a manner that conforms fully with the LCP slope hazards policy, all potential alternatives must be thoroughly reviewed and demonstrated to be infeasible. As shown above, a road connecting the upper and lower portions of the site could be located within the 80-foot wide band shown on Exhibit 14, consistent with the 30% slope restriction. In addition, the County planning staff rejected three potential off site access road alternatives that would allow access to the upper portion of the South Moss Beach site without fully evaluating the feasibility of these alternatives or presenting these or any other alternatives to the Planning Commission or the Board of Supervisors in support of their actions on the Precise Development Plan.

10.4.5.2 Offsite Access Road Alternative 1

The first offsite access road alternative is the existing Seton Medical Center access road, which abuts the South Moss Beach site to the north. This existing road provides access to the medical center and medical center parking lots. Presently, the upper portion of the South Moss Beach site can be accessed via this existing road. This road could be extended to the northeastern corner of the South Moss Beach site with little additional grading and paving. In addition to complying with the 30% slope restriction, this alternative would substantially reduce the grading required for development of the South Moss Beach site, minimizing the visual impacts of cut and fill slopes and retaining walls. As such, this appears to be an environmentally superior alternative to the road specified in the Precise Development Plan. However, the County planning staff rejected this alternative citing potential conflicts with medical center traffic and emergency vehicles. While such conflicts may exist, the County's record includes no evidence that either the County or its planning staff seriously considered this alternative or explored possible resolution of such conflicts. Furthermore, no analysis of this alternative was presented for consideration by the County Planning Commission or Board of Supervisors. Before rejecting

this environmentally superior alternative that would allow development of the upper portion of the site fully in conformity with the LCP slope hazards policy, the County must first conduct a thorough analysis supported by documentary evidence demonstrating that access to the upper portion of the site via the existing medical center access road cannot feasibly be accomplished.

10.4.5.3 *Offsite Access Road Alternative 2*

A second offsite access road alternative would involve constructing a road on the Roman Catholic Archdiocese land which abuts the northeast corner of the South Moss Beach site on the east side of the Seton Medical Center property. Currently, the portion of the Archdiocese land immediately adjacent to the site is undeveloped. The topography in this area is relatively flat and the construction of a road would require minor amounts of grading as compared to the quantity of cut and fill that would be necessary to develop a road on 30% or steeper slopes. Furthermore, the access road would be located behind the existing cypress groves, out of site from public viewpoints. As such, this appears to be a potentially environmentally superior alternative to the road specified in the Precise Development Plan. Nevertheless, the County planning staff rejected this alternative based on the assertion that it would require the construction of a road through undeveloped land and would be on the rural side of the urban/rural boundary. Furthermore, no analysis of this alternative was presented for consideration by the County Planning Commission or Board of Supervisors. While these concerns are valid, they do not necessarily render the alternative infeasible. Before rejecting this alternative, the County must first conduct a thorough analysis supported by documentary evidence demonstrating that access to the upper portion of the site via the Archdiocese property cannot feasibly be accomplished.

10.4.5.4 *Offsite Access Road Alternative 3*

A third offsite access road alternative would entail extending the existing, unpaved road that lies between the site and San Vicente Creek. The road extension would run through what is currently undeveloped land owned by POST to the south of the site or around the back of the site. Using this existing road for part of the access route would not only comply with Policy 9.18 (a) by avoiding 30% or steeper slopes, but also reduce visual impacts that would result from placing the road on the face of the hillside. As such, this appears to be a potentially environmentally superior alternative to the road specified in the Precise Development Plan. However, the County staff rejected this alternative based on the assertion that it would result in impacts to San Vicente Creek and would potentially be growth inducing because the extended road would be located on the rural side of the urban rural boundary. At its closest point, the existing unpaved road is located approximately 300 ft. from San Vicente Creek. As such, improvements to this road to serve the upper portion of the South Moss Beach site would not necessarily result in unavoidable impacts to the creek. Future use of the road could be legally restricted to avoid growth-inducing impacts. Thus, neither basis relied on by the County staff appears to adequately support its opinion that this alternative is infeasible. Furthermore, no analysis of this alternative was presented for consideration by the County Planning Commission or Board of Supervisors. Before rejecting this alternative that would allow development of the upper portion of the site fully in conformity with the LCP slope hazards policy, the County must first conduct a thorough analysis supported by documentary evidence demonstrating that access to the upper portion of the site via the existing dirt road south of the property cannot feasibly be accomplished.

10.4.6 Residential Development on Steep Slopes

As discussed above, in addition to the offsite access road alternatives, a road connecting the upper and lower portions of the site can be constructed onsite within the 80-foot-wide gap between the steeper slopes on the site consistent with LUP Policy 9.18(a). However, the Precise Development Plan would also allow new residential development, including grading on proposed Lots 6, 12, 13, 14, 15, 28 and 47 and construction of single-family homes on Lots 13 and 14, on areas of the site with slopes 30% and steeper in contravention of LUP Policy 9.18(a). Since the property has yet to be subdivided, residential development of the site can occur without siting residential development on the steeply sloped areas of the site. As such, the Precise Development Plan is inconsistent with LUP Policy 9.18(a).

10.4.7 Conclusion

LUP Policy 9.18(a) prohibits development on slopes 30% or steeper unless no alternative exists. The Precise Development Plan as submitted includes development on areas of the site with 30% or steeper slopes. As demonstrated above, several alternatives exist that would allow development of the site without locating development on slopes of 30% or greater steepness. Therefore, the IP amendment Precise Development Plan is inconsistent with LUP Policy 9.18(a) and must be denied.

10.5 Visual Resources

The Commission denies certification of the IP amendment as submitted because the proposed Precise Development Plan does not conform to the visual resource protection policies of the certified LUP.

10.5.1 Issue Summary

The proposed Precise Development Plan would authorize development that would significantly alter views of the hillsides and rural scenic qualities of the area. The San Mateo County LUP contains visual resource protection policies that prevent new development from breaking ridgelines or resulting in a major landform alteration. If certified, the IP amendment would authorize development that would break a ridgeline and would authorize excessive grading inconsistent with LUP visual resource protection policies. Therefore, the proposed IP amendment must be denied.

10.5.2 LCP Standards

LUP Policy 8.7 Ridgelines and Hilltops provides:

a. Prohibit the location of new development on ridgelines and hilltops unless there is no other buildable area on the parcel.

...

c. Restrict the height of structures to prevent their projection above ridgeline or hilltop silhouettes.

d. Prohibit land divisions which would create parcels whose only building site would be on ridgelines or hilltops.

LUP Policy 8.13, Special Design Guidelines for Coastal Communities, states:

The following special design guidelines supplement the design criteria in the Community Design Manual:

a. Montara-Moss Beach-El Granada

(1) Design structures which fit the topography of the site and do not require extensive cutting, grading, or filling for construction.

8.30 Designation of County Scenic Roads and Corridors

...

b. Designate County Scenic Roads and Corridors as shown on the Scenic Roads and Corridors Map for the Coastal Zone. These are: Coast Highway north of Half Moon Bay city limits (State Route 1), Half Moon Bay Road (State Route 92), La Honda Road (State Route 84), Higgins- Purisima Road, Tunitas Creek Road, Pescadero Road, Stage Road, Cloverdale Road, and Gazos Creek Road (Coast Highway to Cloverdale Road).

8.32 Regulation of Scenic Corridors in Urban Areas

a. Apply the regulations of the Design Review (DR) Zoning Ordinance.

b. Apply the design criteria of the Community Design Manual. [See appendix for text --]

c. Apply specific design guidelines for Montara, Moss Beach, El Granada, Princeton-by-the-Sea, Miramar, San Gregorio, and Pescadero as set forth in Urban Design Policies of the LCP. [See above]

Design Review Section 6565.7(1)(b) provides:

where grading is necessary for the construction of structures and paved areas, it blends with adjacent landforms through the use of contoured grading rather than harsh cutting or terracing of the site and does not create problems of drainage or erosion on its site or adjacent property;

10.5.3 Visual Resources

The South Moss Beach site is located on a south and west-facing hillside within a LCP designated scenic corridor just inland of Highway 1 (a State and County designated Scenic Road), on the southern edge of unincorporated Moss Beach (Exhibits 15, 16 & 17). The land immediately adjacent to the south and east of the site is largely open space and agricultural land.

Immediately to the south of the property lie San Vicente Creek, as well as lands in agricultural production (row cropping) that continue until El Granada (Exhibit 16, 17 & 18). The agricultural lands also stretch east of the parcel until they eventually give way to the foothills of Montara Mountain. This area is part of the POST Rancho Corral de Tierra acquisition that extends east, south, and north of the site for 4,262-acres and dominates the landscape (Exhibit 7). As noted in Section 10.2, the POST land, which includes flatlands, uplands, and two main peaks of Montara

Mountain (Montara Knob and South Peak), is contiguous to public lands, including McNee Ranch (part of Montara State Beach Park), San Pedro Valley County Park, the San Francisco Water Department's Peninsula Watershed, and scenic and recreation easements of the Golden Gate National Recreation Area. From the ridges of Montara Mountain, on a clear day San Francisco Bay, Marin headlands, Mt. Tamalpais, Mt. Diablo, Mount Hamilton, Farallon Islands, Pillar Point and Pigeon Point are visible. POST describes the Rancho property as including:

...a panorama of awe-inspiring views, rich agricultural lands, important watersheds, miles of public trails, and an incredible array of wildlife and vegetation. (POST 2004)

With its annual grasslands and scattered trees, the site blends with the surrounding agricultural and open space lands contributing to the rural scenic qualities of this adjacent area. In addition, a 0.6-acre Monterey cypress grove located along the northern border of the parcel screens the nearby residential development and medical center to the north. Together, the site and surrounding agricultural fields, groves of cypress and eucalyptus trees, San Vicente Creek, and coastal mountain range, create a rural landscape between the two more urbanized areas of El Granada and Moss Beach (Exhibit 24).

The South Moss Beach site is visible from several public-viewing locations. The majority of the site, encompassing its western and southern facing slopes, is visible from public trails located in the vicinity of Pillar Point Marsh. Looking east from the trails, the property blends with the adjacent rural lands dominating the visual landscape seen from this position. The site is also visible from Highway 1 where the highway intersects Marine Boulevard, Cypress Avenue, and the south end of Etheldore Street. At the corners where both Marine Boulevard and Cypress Avenue intersects with the highway, the top portion of the western facing slope is visible and forms a ridgeline with the sky (Exhibit 19 & Exhibit 21). The site is also visible from the corner of Etheldore Street and Highway 1. Here, the southwest-facing slope is visible in its entirety and evergreen trees north and east of the site provide a dark silhouette behind the hilltop from this location (Exhibit 22).

10.5.4 Development on Ridgelines and Hilltops

The upper portion of the South Moss Beach site forms a hilltop with a peak elevation of 179 feet above mean sea level (msl). The hilltop is visible and forms a ridgeline with the sky from the intersection of Cypress Avenue and Marine Boulevard with Highway 1 at Viewpoints A and B as depicted in Exhibits 19 & 21. As stated in the visual resources component of the certified LUP, ridgelines and hilltops are sensitive landscape features because they form a contrasting boundary where the sky and landmasses meet, which attracts visual attention. Due to the contrast, any alterations along the boundary can be very apparent. To prevent visual resources impacts, LUP Policy 8.7 provides protective standards for development on and near hilltops and ridgelines.⁸ Policy 8.7(a) prohibits the location of new development on ridgelines and hilltops

⁸ LUP Policy 8.7 was amended by the Coastal Commission on April 29, 1998 to state the following:

**8.7 Development on Skylines and Ridgelines*

a. Prohibit the location of development, in whole or in part, on a skyline or ridgeline, or where it will project above a skyline or ridgeline, unless there is no other developable building site on the parcel.

unless there is no other buildable area on the parcel. If the development is below a ridgeline or hilltop, Policy 8.7(c) restricts the height of structures to prevent their projection above ridgeline or hilltop silhouettes. Lastly, Policy 8.7(d) prohibits land divisions that would create parcels whose only building site would be on ridgelines or hilltops.

The County submitted photo simulations that depict how the site would appear if it were developed in accordance with the Precise Development Plan as submitted. In general, the photo simulation that illustrates the view from Viewpoint A demonstrates that a substantial number of residential structures would break the ridgeline, inconsistent with Policies 8.7(a), (c), and (d) (Exhibit 20). More specifically, as submitted, the Precise Development Plan would create 13 lots (including Lots 28, 29, 30, 31, 32, 42, 43, 44, 48, 51, 52, 53, and 54) exclusively on either the hilltop or ridgeline as seen from Viewpoints A and B, whose only building sites are on the ridgeline and hilltop, inconsistent with Policy 8.7(d). Furthermore, if certified, not only would residential development be authorized on the ridgeline and hilltop, but grading, an access road, and other improvements would be as well, inconsistent with Policy 8.7(a). Based on the information available in the record, it appears that at minimum, as seen from Viewpoints A and B, development on proposed Lots 16, 17, and 18, located just below the ridgeline and structures located on the hilltop would project above the ridgeline, inconsistent with Policy 8.7(c).

It is important to note that the photo simulation of Viewpoint A, discussed above, includes simulated mitigation landscaping that screens much of the development located on the ridgeline and hilltop. Landscape screening as mitigation for avoidable visual impacts to ridgelines should not substitute for plan alternatives including resiting or reducing density when such alternatives are available. Since the property has yet to be subdivided, such alternatives are available, which would allow for a precise development plan consistent with the hilltop and ridgeline policies of

Consistent with Policy 9.18, a site of greater than 30% slope may be deemed developable if it is the only other building site on the parcel and can be developed consistent with all other applicable LCP policies.

Prohibit the location of development, in whole or in part, on a skyline, or where it will project above a skyline, when a developable building site exists on a ridgeline.

A skyline is the line where sky and land masses meet, and ridgelines are the tops of hills or hillocks normally viewed against a background of other hills (General Plan Policy 4.7).

b. Where no other developable building site exists on a parcel, limit development on a skyline or ridgeline to 18 feet in height from the natural or finished grade, whichever is lower.

c. Prohibit the creation of new parcels which have no developable building site other than on a skyline or ridgeline.

As part of the amendment, the Commission also certified a provisional appendix identifying coastal development permit applications (already being processed by County at the time) that are not affected by the LCP amendment policy changes. For these developments, the policies in place prior to the amendment and identified in the provisional appendix apply in lieu of the amended policies. The South Moss Beach Highlands project is included in the list of developments not affected by the April 29, 1998 LCP amendment. Thus, the pre-1998 version of LUP Policy 8.7 is the applicable standard of review for the precise development plan. Nevertheless it is important to note that even if the new policy were to apply, the proposed precise development plan would still be found inconsistent with the revised ridgeline and skyline policy due to the location of development which would be located on a ridgeline and skyline.

the LCP. As such, the photo simulation should be viewed without landscape mitigation, which consequently would make the development breaking the ridgeline even more apparent. Finally, the County did not submit a photo simulation from Viewpoint B; however, as shown in Exhibit 21 any structure located on or near the ridgeline would project above the ridgeline from this vantage point.

As noted above, Policies 8.7(a), (c), and (d) prohibit the creation of parcels or placement of development on ridgelines and hilltops that would break the ridgeline. According to the County's analysis of the visual resources impacts, the Precise Development Plan as submitted, would not result in any development projecting above the ridgeline when viewed from Highway 1. The Commission disagrees with this conclusion. As discussed above, and as shown in the photo simulation of the development from Viewpoint A, notwithstanding the mitigation landscaping, it is apparent that at a minimum, the rooflines and the chimneys of the homes break the ridgeline. Furthermore, photographs of the site from Viewpoint B show that development located near the ridgeline or on the ridgeline would break the ridgeline as viewed from this location on Highway 1.

The Precise Development Plan as submitted, would create parcels and allow development on hilltops and ridgelines as well as just below the ridgelines. As a result, the development of the Precise Development Plan would result in structures breaking the ridgeline as seen from Highway 1 inconsistent with Policies 8.7(a), (c), and (d). Thus, the Commission finds the proposed IP amendment inconsistent with LCP Visual Resource Policies 8.7(a), (c), and (d) and denies the IP portion of LCP Amendment 2-MAJ-02.

10.5.5 Landform Alteration

LUP Policy 8.32 requires that within Scenic Corridors found in urban areas the following be applied: (1) the specific design guidelines for Moss Beach as set forth in Urban Design Policies of the LCP (LUP Policy 8.32(a)); (2) the Community Design Manual; and (3) Design Review Zoning Ordinance. Each of the three regulations referenced in LUP Policy 8.32 includes standards for landform alteration. LUP Policy 8.13(a), Special Design Guidelines for the Montara-Moss Beach-El Granada areas, requires structures to be designed that: (1) fit the topography of the site; (2) do not require extensive cutting, grading, or filling for construction; and (3) are in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urban landscape. The Community Design Manual also states that grading should be minimized and only allowed for the construction of structures and paved areas such as driveways and paths. The manual further specifies that when grading is required, it should blend with the natural landforms of and adjacent to the site through the utilization of contour grading rather than cutting, filling, padding or terracing the site. Finally, the Design Review Zoning Ordinance Section 6565.7(1)(b) also requires that grading blend with adjacent landforms through the use of contour grading rather than harsh cutting or terracing of the site.

If implemented, the Precise Development Plan would: (1) require a substantial amount of grading; (2) result in major landform alteration; and (3) entail harsh cutting and terracing of the site inconsistent with the landform alteration policies of the LCP. First, carrying out development in accordance with the Precise Development Plan as submitted would require approximately 92,000 cubic yards of grading for road construction and building sites.

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Approximately 49,000 cubic yards of grading would constitute cut and nearly 44,000 cubic yards would constitute fill. On average, this equates to approximately 2.1 cubic yards of grading per square foot over the entire site.

Second, the proposed grading would substantially change the topography of the site. In some locations, the elevations would be reduced 10 feet below the existing grade. In other areas on the site the grade would be increased up to 22 feet above the current elevations. Both the substantial amount of grading and the major alteration of the site's topography required to implement the Precise Development Plan are inconsistent with LUP Policy 8.13(a), the Community Design Manual, and Section 6565.7(1)(b) of the Design Review Regulations. Furthermore, the Precise Development Plan would authorize creation of level building pads for the single-family residences, which would result in harsh terracing of site. Due to the steep hillsides of the parcel, level building pads would require extensive grading and use of retaining walls. As submitted, the Precise Development Plan includes numerous retaining walls ranging in height from approximately 2 feet to 10 feet. The substantial amount of grading and use of such extensive retaining walls required to facilitate the level building pads are inconsistent with LUP Policy 8.13, Special Design Guidelines for Coastal Communities Community and the Design Manual and Review Zoning Ordinance Section 6565.7(1)(b). In addition, level building pads, as opposed to contour grading and development set into the hillside, are less likely to blend or be subordinate to the natural landforms/landscape inconsistent with LUP Policy 8.13(a), the Community Design Manual, and Section 6565.7(1)(b) of the Design Review Regulations.

The County in its review of the Precise Development Plan found the required grading consistent because: (1) the volumes of cut and fill would be balanced on site, eliminating the need for any significant importing or off hauling of material from the site; (2) the alteration of natural topography would be minimized to the extent feasible given the level of development contemplated on the site and the need to comply with County standards for maximum street slope; and (3) the majority of the development would be located in the level areas of the site (the upper and lower terraces), and the remaining homes would step up the slope, following the natural terrain.

While cut and fill would be balanced on site, and development would be concentrated in the upper and lower relatively flat portions of the site, the Precise Development Plan would authorize a substantial development on the slopes requiring major landform alteration. Alternative site plans could be designed that would reduce the amount of grading and landform alteration that would occur under the proposed Precise Development Plan. For example, changing the proposed building pads to step into the hillside would decrease the need for retaining walls. Furthermore, the configuration of the senior affordable housing apartments on the lower portion of the site could be altered so that a 10-foot retaining wall would not be required at the base of the steep slopes. Lastly, use of alternative routes for the proposed access road would reduce the substantial amount of grading and landform alteration required to construct road that would meet the County standards for maximum street slope.

The Precise Development Plan as submitted, if certified and implemented, would require approximately 92,000 cubic yards of cut and fill and the use of extensive retaining walls and would result in substantial alteration of the natural landform inconsistent with LUP Policy

8.13(a), the Community Design Manual, and Section 6565.7(1)(b) of the Design Review Regulations. As such, the Commission finds the proposed IP amendment inconsistent with LCP Visual Resource Policies LUP Policy 8.13(a), the Community Design Manual, and Section 6565.7(1)(b) of the Design Review Regulations and denies the IP portion of LCP Amendment 2-MAJ-02.

10.6 Wetlands

The Commission denies the IP amendment because the proposed precise development plan does not conform to the LUP policies concerning protection of wetlands.

10.6.1 Issue Summary

The proposed Precise Development Plan would authorize development within 100 feet of a wetland at the base of the South Moss Beach site. The San Mateo County LCP contains wetland resource protection policies that prevent new development from encroaching within 100 feet of a wetland. As such, the IP amendment is inconsistent with LUP wetland resource protection policies.

10.6.2 LCP Standards

LUP Policy 7.14 Definition of Wetland

Define wetland as an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Such wetlands can include mudflats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water of spring tides), marginal to lakes, ponds, and manmade impoundments. Wetlands do not include areas which in normal rainfall years are permanently submerged (streams, lakes, ponds and impoundments), nor marine or estuarine areas below extreme low water of spring tides, nor vernal wet areas where the soils are not hydric.

In San Mateo County, wetlands typically contain the following plants: cordgrass, pickleweed, jaumea, frankenia, marsh mint, tule, bullrush, narrow-leaf cattail, broadleaf cattail, pacific silverweed, salt rush, and bog rush. To qualify, a wetland must contain at least a 50% cover of some combination of these plants, unless it is a mudflat.

LUP Policy 7.16 Permitted Uses in Wetlands provides:

Within wetlands, permit only the following uses: (1) nature education and research, (2) hunting, (3) fishing, (4) fish and wildlife management, (5) mosquito abatement through water management and biological controls; however, when determined to be ineffective, allow chemical controls which will not have a significant impact, (6) diking, dredging, and filling only as it serves to maintain existing dikes and an open channel at Pescadero Marsh, where such activity is necessary for the protection of pre-existing dwellings from flooding, or where such activity will enhance or restore the biological productivity of the marsh, (7) diking, dredging, and filling in any other wetland only if such activity serves to restore or enhance the biological productivity of the wetland, (8) dredging manmade reservoirs for agricultural water supply where wetlands may have formed, providing

spoil disposal is planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation, and (9) incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

LUP Policy 7.18 Establishment of Buffer Zones provides:

Buffer zones shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation. This setback may be reduced to no less than 50 feet only where (1) no alternative development site or design is possible; and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game. A larger setback shall be required as necessary to maintain the functional capacity of the wetland ecosystem.

LUP Policy 7.19 Permitted Uses in Buffer Zones provides:

Within buffer zones, permit the following uses only: (1) uses allowed within wetlands (Policy 7.16) and (2) public trails, scenic overlooks, and agricultural uses that produce no impact on the adjacent wetlands.

10.6.3 Wetland Resources

The South Moss Beach site contains a drainage ditch that runs along the western boundary of the site adjacent to Etheldore Street. In August 2003, the applicants submitted a wetland delineation in response to Commission staff's request for additional information to address potential impacts to biological resources related to the proposed installation of water supply pipelines for development of the South Moss Beach site (Huffman 2003). According to the applicant's wetland delineation study, the drainage ditch along Etheldore Street contains a preponderance of hydrophytic vegetation (wetland indicator plants), hydric (wetland) soils, and wetland hydrology. Therefore, pursuant to the definition contained in Section 13577 of the Commission's regulations and LUP Policy 7.14, the drainage ditch is a wetland. Accordingly, the applicant's wetland delineation identifies an approximately 0.025-acre wetland in the drainage ditch.

The San Mateo County LUP Policy 7.18 requires a minimum 100-foot buffer from the periphery of wetlands and Policy 7.19 limits development activities and uses within 100 feet of a wetland to those specified in Policy 7.16, public trails, scenic overlooks, and agricultural uses that produce no impact on the adjacent wetlands. LUP Policy 7.18 also allows for a larger setback as necessary to maintain the functional capacity of the wetland ecosystem and for the 100-foot setback to be reduced to no less than 50 feet if: (1) no alternative development site or design is possible and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game.

The Precise Development Plan would authorize development consisting of a roadway, parking lot, single-family homes and apartment buildings within 100 feet of the drainage ditch wetland and within 1 ft. at its closest point in conflict with LUP Policies 7.18 and 7.19. As such, the

buffer was reduced below the minimum 50 feet. Therefore, the Commission finds the proposed IP amendment inconsistent with Policies 7.18 and 7.19 and denies the IP portion of LCP Amendment 2-MAJ-02. Because the drainage ditch wetland is small, isolated, and provides minimal habitat benefits, a reduced buffer may be appropriate. However, because LUP Policy 7.18 prohibits reduction of the wetland buffer to less than 50 feet and requires that even a reduction to 50 feet be evaluated by the Department of Fish & Game, any reduction in the buffer necessary to accommodate the Precise Development Plan would require Commission certification of an amendment to LUP Policy 7.18.

10.7 Environmentally Sensitive Habitat

The Commission denies the IP amendment because the proposed Precise Development Plan does not conform to the LUP policies concerning protection of environmentally sensitive habitats.

10.7.1 Issue Summary

Wetlands, San Vicente Creek, an unnamed tributary, and associated riparian corridors lie to the south, east and west of the site. The LCP contains policies identifying and protecting environmentally sensitive habitats, which include wetlands, perennial and intermittent streams, and riparian corridors. As submitted, the Precise Development Plan would require substantial alteration of the drainage régime, which would deprive the wetlands, streams, and riparian corridors of essential water in conflict with the environmentally sensitive habitats resource protection policies of the LCP.

10.7.2 LCP Standards

LUP Policy 7.1 Definition of Sensitive Habitats provides:

Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes. Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

LUP Policy 7.3 Protection of Sensitive Habitats provides:

a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.

b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

10.7.3 Environmentally Sensitive Habitats and Site Drainage Characteristics

San Vicente Creek is located approximately 80 to 350 feet south of the South Moss Beach site. San Vicente Creek is a perennial coastal stream that drains Montara Mountain and discharges into the ocean approximately 7 miles west of the site in the vicinity of the Fitzgerald Marine Reserve. San Vicente Creek provides cold freshwater habitat, fish spawning and migration habitat. Riparian vegetation extends toward the South Moss Beach site from the banks of San Vicente Creek for approximately 80 to 350 feet. A dirt road branching from Etheldore Street extends through the riparian corridor in a northerly direction that is visible in Exhibit 17. The South Moss Beach site is also bordered on the northeast by an unnamed tributary ravine that drains intermittently in the direction of San Vicente Creek. On either side of the ravine are patches of vegetation approximately 20 feet in width. In addition to San Vicente Creek and the unnamed tributary, the South Moss Beach site contains wetlands and is immediately adjacent to areas containing wetlands (Exhibit 9). The first wetland area, Wetland A, is located along the northeastern edge of the parcel and was identified during the initial review by the County. Approximately .06 acre of the wetland is located on the project site and .04 acre extends east off the site. The second area, Wetland B, discussed in Section 10.8 is an approximately .025-acre wetland located immediately adjacent to the western property boundary in a drainage ditch that runs parallel to Etheldore Street (Huffman 2003) (Exhibit 23).

The site is divided into two main sub-basins. The southern portion of the housing site is within a 10.9-acre drainage sub-basin (Subbasin A as depicted in Exhibit 10). Runoff from the top of the Subbasin A currently drains into the earthen ditch that contains Wetland B along Etheldore Street and flows north westerly through the developed areas of Moss Beach where it eventually joins San Vicente Creek downstream of the property. The remaining northern portion of the site, Subbasin B, drains in an easterly direction to Wetland A and the unnamed tributary adjacent to the site as shown in Exhibit 9. The tributary conveys runoff into San Vicente Creek at the confluence, about 800 feet to the southeast.

LUP Policy 7.1 defines sensitive habitat areas including all perennial and intermittent streams and their tributaries, riparian corridors and wetlands. As such, Wetlands A and B, and San Vicente Creek, the unnamed tributary and associated riparian corridors, are defined as sensitive habitat. In accordance with LUP Policy 7.3(b), the proposed Precise Development Plan must ensure that development of the site would be sited and designed to avoid significant adverse impacts to and maintain the biological productivity of these adjacent sensitive habitats.

The natural drainage régime of the site provides water directly to the unnamed tributary and Wetlands A and B, and indirectly to San Vicente Creek. The proposed plan, if implemented, would require topographic and drainage modifications to the site that would result in the direction of all natural runoff from Subbasin B away from Wetland A and the unnamed tributary to the western base of the site. Depriving Wetland A and the unnamed tributary of runoff from the site could result in significant adverse impacts, since these sensitive habitats currently depend, in part, on the runoff from the site as a water source. The alteration of the site's natural drainage pattern that would occur if development were carried out according to the Precise Development Plan would reduce the amount of water flowing to the wetlands, streams, and riparian corridors, which would significantly adversely impact these sensitive habitats and reduce

their biological productivity. Therefore, the Commission finds the proposed IP amendment inconsistent with LCP Environmentally Sensitive Habitat Policy 7.3(b) and denies the IP portion of LCP Amendment 2-MAJ-02.

10.8 Affordable Housing Policies

Both County Counsel's April 6, 2000 memorandum to the Planning Commission and County Planning staff's March 24, 2004 letter suggest that affordable housing policies contained in the LCP and the State Government Code justify approval of the Precise Development Plan even though the plan would allow development that is inconsistent with the resource protection policies of the LCP. Both the April 6, 2000 memorandum and the March 24, 2004 letter include the statement that Government Code section 65589.5 prohibits the imposition of conditions on an affordable housing project that would make the development infeasible. Both the memorandum and letter also suggest that limitations on development of the site necessary to ensure conformity with LCP resource protection policies present a conflict with LUP Policy 3.15, which designates the South Moss Beach, North Moss Beach, and North El Granada sites as potential affordable housing development sites, and that such conflicts should be resolved in favor of allowing development of the South Moss Beach site at the density sought by the applicant.

10.8.1 LUP Policy 3.15

Although LUP Policy 3.15 provides for the potential to develop an affordable housing project at the South Moss Beach site by allowing development at a higher density than would otherwise be permitted, this policy neither requires the South Moss Beach site to be developed as an affordable housing site nor does it require development of the site at the maximum allowable density. No provision of the LCP, Government Code or the Coastal Act allows for development of the South Moss Beach site at a higher density than that density that can feasibly be accommodated on the site in a manner that is in conformity with the certified LCP.

10.8.2 Coastal Act

Coastal Act Section 30604(b) states:

After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

Coastal Act Section 30604(f) states:

The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3

(commencing with Section 30200) or the certified local coastal program. [Emphasis added.]

Pursuant to Coastal Act Section 30604(b), the standard of review for development in an area with a certified LCP is conformity with the LCP. No provision of the Coastal Act grants a local government the authority to approve development in the Coastal Zone that would conflict with the policies of the certified LCP. In fact, Coastal Act Section 30604(f) makes it clear that density bonuses that are mandatory under the State Government Code Section 65915 for affordable housing developments in areas of the state outside of the Coastal Zone are not required to be granted for development located in the Coastal Zone if the density sought cannot feasibly be accommodated in a manner that is in conformity with a certified LCP or Chapter 3 of the Coastal Act.

10.8.3 State Housing Policies

The County contends that the affordable housing requirements of the State Government Code prohibit the County from modifying the Precise Development Plan to bring the plan into conformity with the LCP if such modifications would render development of an affordable housing project at the site infeasible. However, as cited below, the Government Code itself contains provisions similar to Coastal Act section 30604(f) that expressly state that the State affordable housing policies do not supersede the requirements of the Coastal Act. Effective in 2003, the Legislature added Government Code Section 65915 subsection (m), which expressly states that affordable housing law does not supersede or alter application of the Coastal Act. It provides:

(m) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

Another section of affordable housing law echoes the Legislature's limitations on application of the affordable housing provisions. Government Code Section 65589.5, as cited by the County, generally limits how local agencies may deny affordable housing development or impose conditions that would render a proposed affordable housing development infeasible. However, 65589.5 includes numerous caveats to the general limitations, including the following:

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). [Emphasis added.]

Pursuant to the above-cited State housing policies, density bonuses and other incentives and concessions for affordable housing developments may only be granted for development in the Coastal Zone if the development can be carried out in a manner that is consistent with the

policies of Chapter 3 of the Coastal Act and/or the applicable certified LCP. State and local housing policies do not supersede the requirements of the Coastal Act, but must be carried out in a manner that conforms to the coastal resource protection policies contained in Chapter 3 of the Coastal Act and/or the applicable certified LCP.

10.8.4 Conflict Resolution

The Coastal Act authorizes the Commission to resolve conflicts in the application of Chapter 3 policies in a manner most protective of coastal resources. Notably, the Coastal Act limits its conflict resolution authorization to conflicts between Chapter 3 policies. County Counsel states that restrictions necessary to conform to the resource protection policies of the LCP that would reduce the density of the development feasible on the South Moss Beach site below that specified in LUP Policy 3.15 would constitute a conflict between policies of the LCP. This position appears to be premised on the assumption that LUP Policy 3.15 *requires* the site to be developed at medium-high density and that development at a lower density is therefore prohibited by Policy 3.15. However, as discussed above, LUP Policy 3.15 does not require development of an affordable housing project at the South Moss Beach site, nor does it prohibit development of the site at a density lower than the maximum allowable. As such, no conflict exists between LUP Policy 3.15 and the either visual resource, hazard, wetland, or any of the other resource protection policies of the LCP. In addition, because the Coastal Act limits its conflict resolution authorization to conflicts between Chapter 3 policies, the County is required to implement LUP Policy 3.15 in a manner that fully conforms to the resource protection policies of its certified LCP.

10.8.5 Conclusion

As stated above, no provision of the LCP, the Government Code, or the Coastal Act allows for development of the South Moss Beach site at a higher density than that density that can feasibly be accommodated on the site in a manner that is in conformity with the certified LCP. Therefore, the Commission finds that the proposed IP amendment must be denied because the proposed IP amendment would allow for development inconsistent with the hazards, visual resources, landform alteration, wetlands, sensitive habitat policies of the certified LUP.

11.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. Additionally, the Commission's LCP review and approval procedures have been found by the Resources Agency to be functionally equivalent to the environmental review process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP and LCP amendment submitted for Commission review and approval. Nevertheless, the Commission is required when approving an LCP to find that the LCP does conform with the applicable provisions of CEQA.

As stated above, the County of San Mateo LCP amendment 2-MAJ-02 consists of a Land Use Plan (LUP) amendment and Implementation Plan (IP) amendment. The Commission

**County of San Mateo Coastal Program Amendment 2-MAJ-02
(County of San Mateo)**

incorporates its findings on Coastal Act and land use plan conformity at this point as it is set forth in full above.

The land use plan amendment as originally submitted raises concerns regarding the Chapter 3 policies of the Coastal Act and thus cannot be found to be consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act. The land use plan amendment, as submitted, is not adequate to carryout and is not in conformity with the policies of Chapter 3 of the Coastal Act with respect to ensuring development resulting from the density bonus provisions of the LCP is carried out consistent with the certified LCP. The Commission, therefore, has suggested modifications to bring the land use plan amendment into full conformance with the requirements of the Coastal Act. Specifically, the Commission's certification provides for changes do the density bonus provisions that would ensure any resulting development would be carried out consistent with the certified LCP standards. As modified, the Commission finds that approval of the land use plan amendment will not result in significant adverse environmental impacts under the meaning of the California Environmental Quality Act. The Commission finds that approval of the County of San Mateo LUP amendment 2-MAJ-02 will not result in significant unmitigated adverse environmental impacts within the meaning of CEQA.

Further, any future individual development projects would require coastal development permits issued by the County of San Mateo, or in the case of areas of original jurisdiction, by the Coastal Commission. Throughout the Coastal Zone, specific impacts associated with individual development projects are assessed through the CEQA environmental review process. Thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures within the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.

Exhibits:

1. Potential Designated Affordable Housing Sites under Policy 3.15(a)) and Mid Coast Urban/Rural Boundary
2. Regional Map
3. Vicinity Map
4. Proposed Rezoning
5. Proposed Precise Development Plan
6. LCP Amendment Resolution of Submittal
7. Peninsula Open Space Trust (POST) Rancho Corral de Tierra
8. Etheldore Street
9. Biological Resources
10. Site Drainage Regime
11. March 24, 2004 correspondence from San Mateo County Planner, Lisa Aozasa
12. Slope map produced by applicant in February of 2004
13. Slope map produced by San Mateo County in March 2000
14. Slope map produced by County in March of 2004 & identification of additional areas of 30% or greater slopes by Commission staff
15. 2002 Oblique Aerial View: Vicinity of South Moss Beach Site
16. 2001 Aerial View: Vicinity of South Moss Beach Site
17. 2001 Aerial View: Vicinity of South Moss Beach Site (close-up)

**County of San Mateo Coastal Program Amendment 2-MAJ-02
(County of San Mateo)**

18. Row Cropping on POST Rancho Corral de Tierra Land
19. Existing Viewpoint A (near intersection of Highway 1 and Cypress Ave.)
20. Viewpoint A: Photosimulation of approved development (near intersection of Highway 1 and Cypress Ave.)
21. Existing Viewpoint B (near intersection of Highway 1 and Marine Blvd.)
22. Existing Viewpoint C (near intersection of Highway 1 and southern end of Etheldore St)
23. Wetland Drainage Ditch (Wetland B)
24. View of Site and Surrounding Area from Airport Blvd.

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

Peninsula Open Space Trust Website

(http://www.openspacetrust.org/POST_Lands/rancho_corral.htm) 2004.

San Mateo County 2000. Final Moss Beach Highlands Environmental Impact Report. Brady LSA. January 2000.

The Huffman Broadway Group, 2003. Investigation of the presence of waters of the United States and wetlands and riparian areas subject to California Coastal Commission Jurisdiction within the proposed South Moss Beach Highlands Water Main Extension Project Study Area, August 19, 2003.

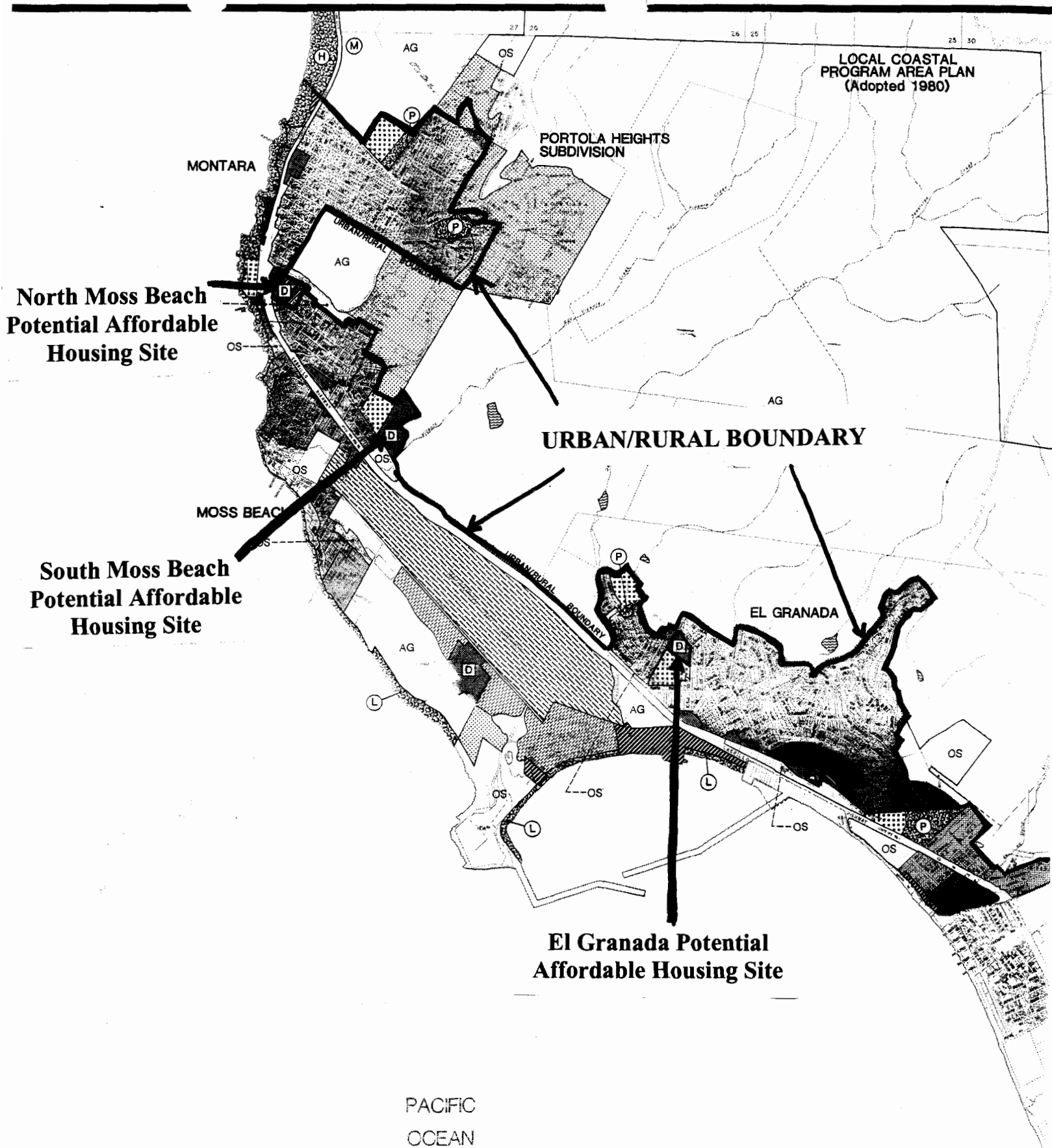
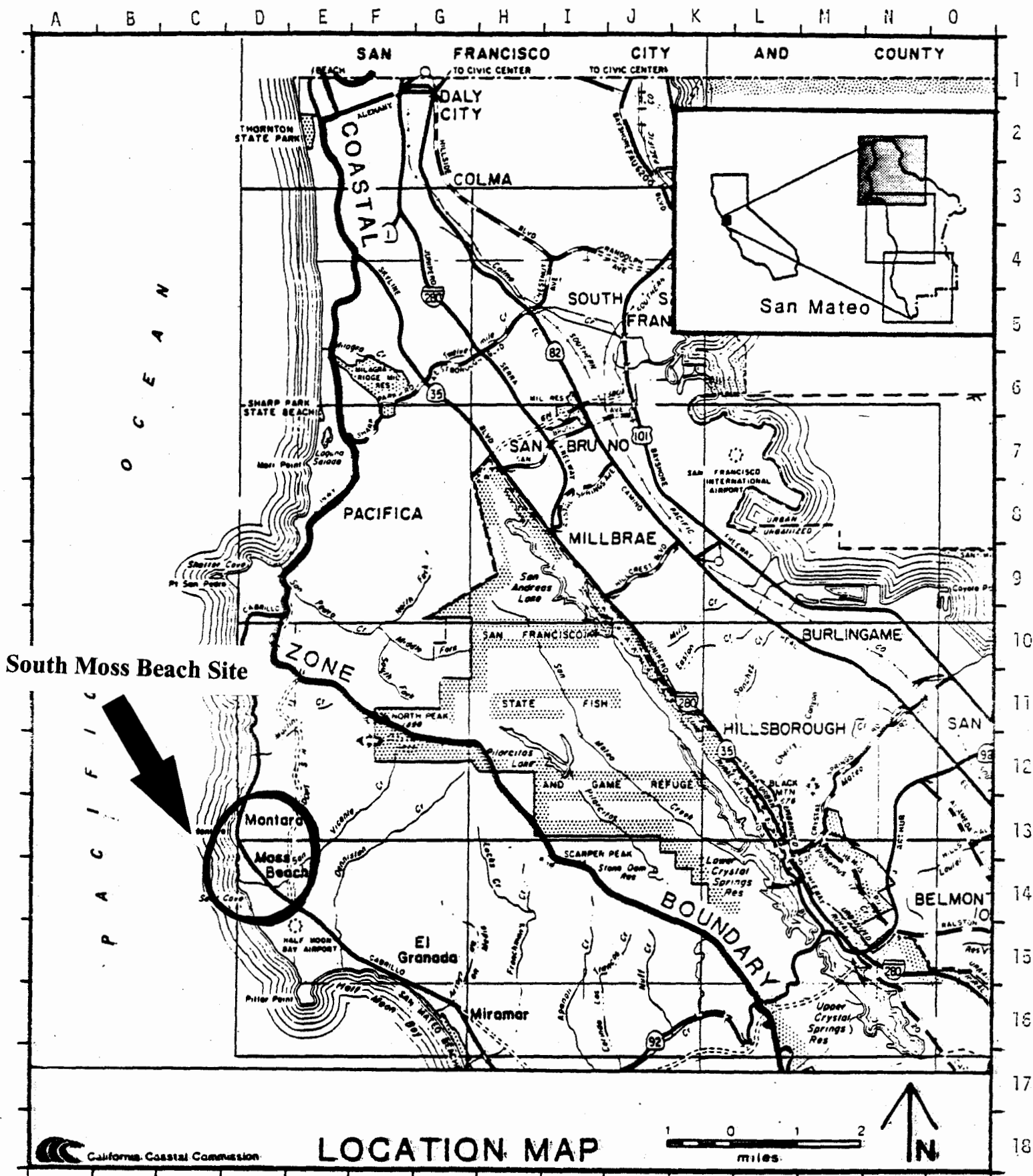
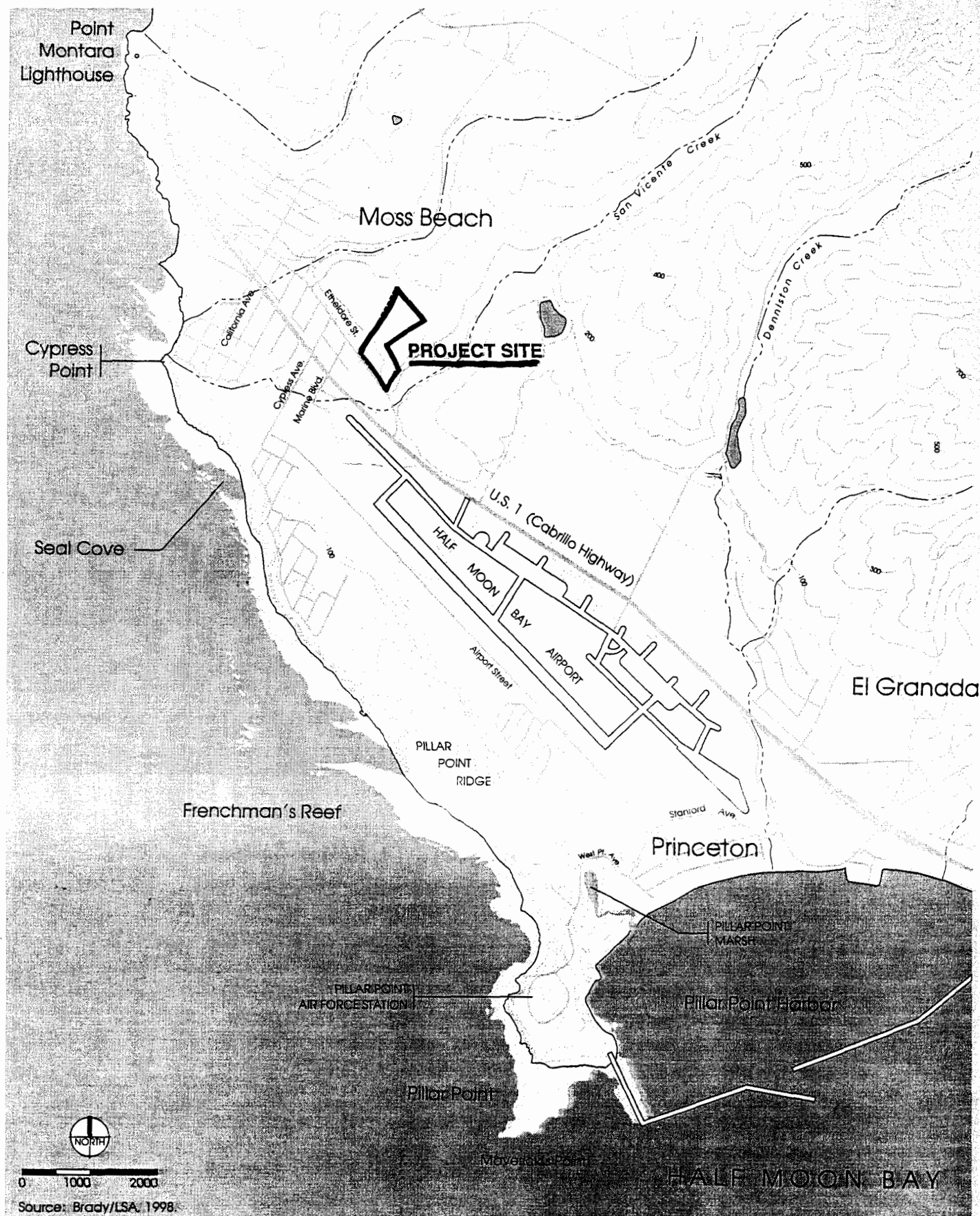


EXHIBIT NO. 1
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)



County of San Mateo

EXHIBIT NO. 2
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)



MOSS BEACH HIGHLANDS

EXHIBIT NO. 3

San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

BRADY / LSA

37-32

TAX CODE AREA

**Rezoning
from R-3-A/S-5/DR/CD
to PUD-129/DR/CD**

91

5

320

81647 (32)

8K-47
34

29

11

BK-A7
(5)

84-4

25

HIGHWAY

teo Co.
2 (Moss

Figure 1

EXHIBIT NO. 4
o. LCP Amendment
(s Beach Highlands)

0452

ASSESSORS MAP COUNTY OF SAN MATEO, CALIF.

△ PARCEL MAP VOL 66/34-35

2-8.

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A



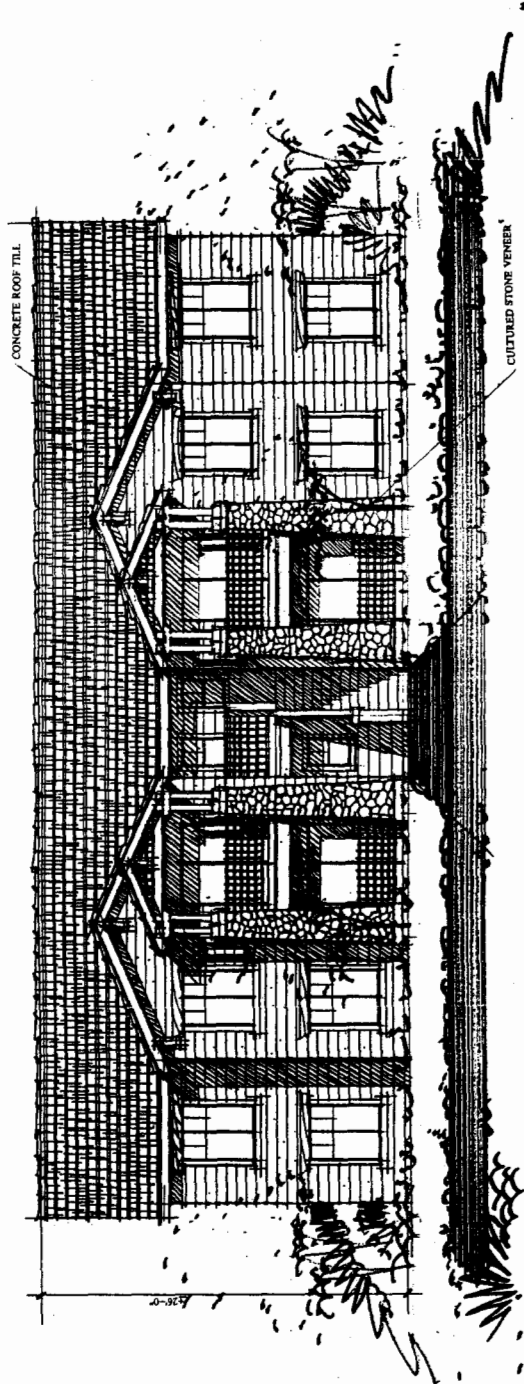
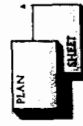
KAUFMAN BROAD
ARCHITECTURE

MOSS BEACH

SOUTH BAY DIVISION

DATE AUGUST 1, 1997

REVISIONS
OCTOBER 21, 1997



MOSS BEACH SENIOR APARTMENTS



KAUFMAN BROAD
ARCHITECTURE

MOSS BEACH

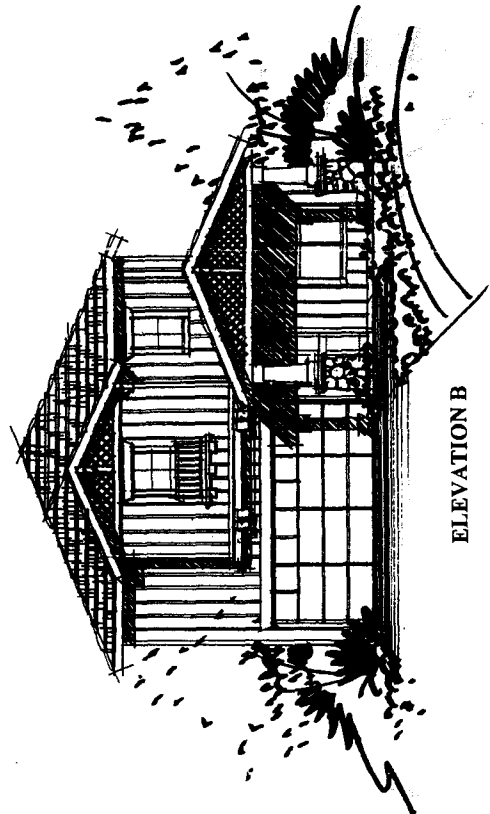
SOUTHERN BAY DIVISION

DATE AUGUST 6, 1991

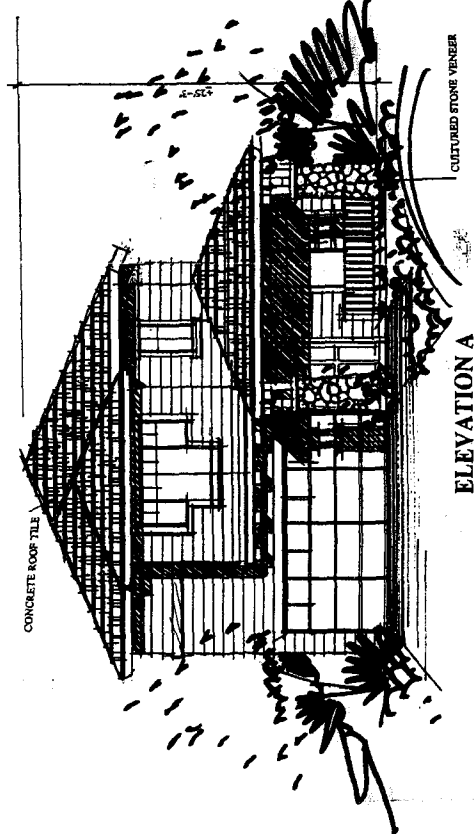
REVISIONS

AUGUST 14, 1991
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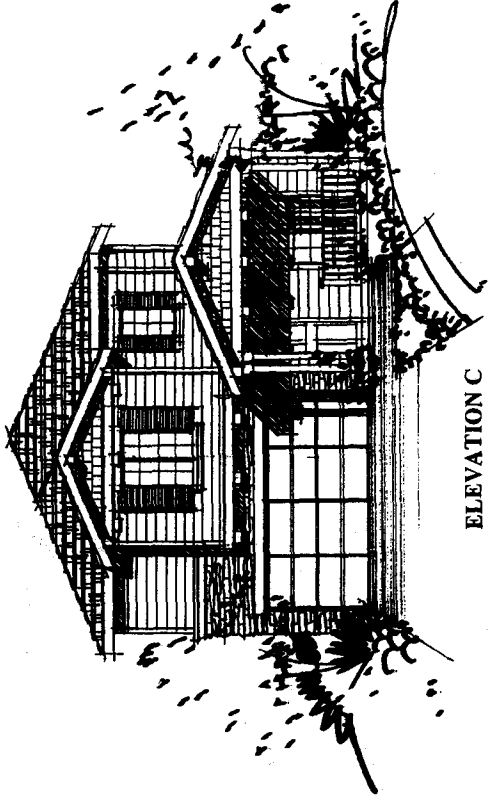
PLAN ONE
SHEET



ELEVATION B



ELEVATION A



ELEVATION C

RESOLUTION NO. 65413

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION RESUBMITTING A LOCAL COASTAL PROGRAM AMENDMENT FOR THE MOSS BEACH HIGHLANDS RESIDENTIAL DEVELOPMENT PROJECT TO THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION OF CONFORMITY WITH THE CALIFORNIA COASTAL ACT

WHEREAS, the Board of Supervisors approved the Moss Beach Highlands Residential Development Project on August 8, 2000, which included: (1) a Local Coastal Program (LCP) policy amendment to allow flexibility in the affordability requirements applicable to the designated affordable housing sites (Resolution No. 63828, Exhibit A), and (2) related actions including an LCP amendment adopting a Planned Unit Development (PUD) Ordinance allowing 73 affordable senior apartments and 55 single-family homes on 12.5 acres at the South Moss Beach Designated Affordable Housing Site (Ordinance No. 03977, Exhibit B), and (3) additional related actions including a Coastal Development Permit, Tentative Subdivision Map and a Grading Permit; and

WHEREAS, as directed by the Board of Supervisors via Resolution No. 63828, staff submitted the LCP amendment and all supporting materials and related actions to the Coastal Commission for certification; and

WHEREAS, the Coastal Commission staff has determined that language in Resolution No. 63828 is unclear as to the County's intent with regard to the County's request that the Coastal Commission not recommend or suggest modifications to the LCP amendment; and

WHEREAS, the Board of Supervisors believes that the language in Resolution No. 63828 suggesting that the Board is unwilling to consider modifications to the LCP amendment was included inadvertently;

EXHIBIT NO. 6
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby clarify that the County is willing to consider modifications recommended by the Coastal Commission to the proposed amendment of LCP Policy 3.16 or to the Moss Beach Highlands PUD Ordinance described in Ordinance 03977, or other related actions.

AND, BE IT FURTHER RESOLVED, that the San Mateo County Board of Supervisors directs staff to resubmit the Local Coastal Program amendment for the Moss Beach Highlands Residential Development Project and all supporting materials and related actions to the Coastal Commission for certification of conformity with the California Coastal Act.

AND, BE IT FURTHER RESOLVED, that, if the Coastal Commission certifies the LCP amendment, without modifications, as conforming to the Coastal Act, it shall have the full force of law thirty (30) days after the certification; however, if the Coastal Commission certifies the LCP amendment with modifications, those modifications must be considered and accepted by the Board of Supervisors before the LCP amendment will have the full force of law.

AND, BE IT FURTHER RESOLVED, that the San Mateo County Board of Supervisors intends to carry out this LCP amendment in a manner fully in conformity with the Coastal Act.

* * * * *

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RESOLUTION NO. 63828

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION AMENDING THE SAN MATEO COUNTY LOCAL COASTAL PROGRAM
(LCP) TO ALLOW FLEXIBILITY IN THE AFFORDABILITY REQUIREMENTS
APPLICABLE TO THE DESIGNATED AFFORDABLE HOUSING SITES

* * * * *

WHEREAS, LCP Policy 3.15(a) designates three sites where affordable housing should be provided when residential development occurs, including the 12.5-acre site northeast of Etheldore Street in South Moss Beach; and

WHEREAS, LCP Policy 3.15(d)(2) requires that 30 percent of the total units constructed on the site are reserved for low income households and, in addition to the required low income units, twenty percent (20%) of the total units constructed are reserved for moderate income units; and

WHEREAS, the Moss Beach Highlands Residential Development project has been proposed by Kaufman and Broad South Bay, Inc. for the 12.5-acre South Moss Beach Designated Housing Site, and will reserve 73 out of a total 128 units, or fifty-six percent (57%), of the total units constructed for low income senior households, but no units will be specifically preserved for moderate income households; and

WHEREAS, LCP Policy 3.16(b) allows the Board of Supervisors to provide for flexibility with regard to the number of affordable housing units constructed within one year if the Board finds the phasing requirement of LCP Policy 3.16(a) threatens the implementation of affordable housing on a designated site by prohibiting the developer(s) from building when circumstances are uniquely favorable for a limited period of time (i.e., low interest rate financing or public subsidies are available); and

WHEREAS, an amendment is proposed to LCP Policy 3.16(b), which would permit the Board of Supervisors to similarly allow for flexibility with regard to the affordability requirements of LCP Policy 3.15(d) when the Board finds that strict adherence to the affordability requirements would threaten the implementation of affordable housing on a designated site by prohibiting the developer(s) from building when circumstances are uniquely favorable for a limited period of time (i.e., low interest rate financing or public subsidies are available); and

WHEREAS, the Board of Supervisors finds that an amendment allowing such flexibility is justified with regard to the Moss Beach Highlands Project, since the applicant is providing a greater number of affordable units at a higher level of affordability than required by Policy 3.15(d), and is proposing to use Tax Credit Financing which targets low income, rather than moderate income, households, and to strictly apply the affordability requirements contained in LCP Policy 3.15 could threaten the implementation of affordable housing on the South Moss Beach designated site by jeopardizing the applicant's ability to take advantage of the availability of Tax Credit Financing; and

WHEREAS, the Board of Supervisors also finds that the amendment allowing for flexibility in application of the affordability requirements of LCP Policy 3.15(d) is justified with regard to the Moss Beach Highlands Project, since the project includes both low income senior apartments and relatively modest size single-family homes, providing a mix of housing types and affordability levels consistent with the overall intent of LCP Policy 3.15 (d); and

WHEREAS, such an amendment may also prove to be beneficial to encourage the implementation of affordable housing on the two remaining designated housing sites, which are currently undeveloped; and

WHEREAS, the County Planning Commission considered the Moss Beach Highlands Residential Development Project, including this proposed amendment, at public hearings held on February 9, February 24, March 22, and April 12, 2000, and recommends that the Board of Supervisors adopt this proposed amendment to LCP Policy 3.16(b); and

WHEREAS, the County Board of Supervisors considered the Moss Beach Highlands Residential Development Project, including this proposed amendment, at a public hearings held on June 6, July 11, July 15, and August 8, 2000; and

WHEREAS, public notice was made of these hearings to ensure maximum public participation, and all interested parties were afforded the opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors does hereby amend LCP Policy 3.16(b) to read as follows:

"Allow the County Board of Supervisors to increase the number of affordable housing units permitted per year by Policy 3.16(a), and/or adjust the percentage of low or moderate income units required by Policy 3.15(d), if the Board makes findings that the above phasing and/or affordability requirements threaten the implementation of affordable housing on a designated site by prohibiting the developer(s) from building when circumstances are uniquely favorable for a limited period of time (i.e., low interest rate financing or public subsidies are available)."

AND, BE IT FURTHER RESOLVED, that pursuant to Public Resources Code Section 30512(b), the San Mateo County Board of Supervisors directs staff to submit the Local Coastal Program policy amendment contained in this resolution and all supporting materials and related actions to the Coastal Commission for certification of conformity with the California Coastal Act.

AND, BE IT FURTHER RESOLVED, that pursuant to Public Resources Code Section 30512(b), the San Mateo County Board of Supervisors requests that the Coastal Commission not recommend or suggest modifications to the Local Coastal Program policy amendment submitted herewith.

AND, BE IT FURTHER RESOLVED, that the Local Coastal Program policy amendment contained in this resolution shall not have the full force of law until thirty (30) days after the Coastal Commission has certified it, without modification, as conforming to the Coastal Act.

AND, BE IT FURTHER RESOLVED, that the San Mateo County Board of Supervisors intends to carry out this Local Coastal Program amendment in a manner fully in conformity with the Coastal Act.

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ORDINANCE NO. 03977

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

AN ORDINANCE AMENDING SECTION 6115, CHAPTER 2, DIVISION VI OF THE SAN MATEO COUNTY ORDINANCE CODE (ZONING ANNEX) TO ADD PLANNED UNIT DEVELOPMENT (PUD) 129 - MOSS BEACH HIGHLANDS TO APPENDIX A TO THE COUNTY ZONING MAPS AND TO REVISE THE ZONING MAPS AFFECTING THE SOUTH MOSS BEACH DESIGNATED HOUSING SITE (APN 037-320-270)

* * * * *

The Board of Supervisors of the County of San Mateo, State of California, ORDAINS as follows:

Section 1. PUD 129 is hereby added to Appendix A to the County Zoning Maps to read as follows:

PLANNED UNIT DEVELOPMENT 129 - MOSS BEACH HIGHLANDS

1. Purpose and Application. The following PUD-129 regulations shall govern the land use and development of Moss Beach Highlands, a 73 unit senior affordable apartment and 55 unit single-family market rate residential development on a 12.5 acre parcel located a 1181 Etheldore Street at the southern edge of the unincorporated community of Moss Beach (APN 037-320-270; County Planning Division File No. PLN 1999-00452). To the extent that the regulations contained herein conflict with other provisions of Part One, Division VI (Zoning) of the San Mateo County Ordinance Code, the regulations contained herein shall govern. To the extent that the regulations contained herein conflict with mitigation measures adopted by the Board of Supervisors for the project, the mitigation measures shall govern.
2. Development Plan and Amendments. All development shall conform to the development plans for the property as approved by the Board of Supervisors, and on file with the County Planning Division. Determination of conformity with the plan shall be made by the County Planning Director. The Planning Director may approve reasonable alterations to the development plan, provided he/she finds that they are minor in nature and are consistent with the purpose and intent of the approved development plans and this PUD Ordinance. All other alterations or additions must be referred to the Planning Commission for approval.
3. Permitted Land Uses. The only permitted land uses shall be those indicated on the development plan approved by the Board of Supervisors: 73 affordable senior apartments, including one resident manager's unit; one community/recreation building; 55 single-family homes, one tot-lot playground. Second units are not permitted.
4. Maximum Density/Open Space. The total number of residential units permitted on the site shall not exceed 128. The parcel encompassing the seep and its buffer zone shall remain as

undeveloped open space. The sloped area behind the senior apartments shall also remain as open space.

5. Assurance of Project Completion. The affordable senior apartments and the single-family units shall be constructed simultaneously. If necessary, at the Planning Director's discretion, Building Permits or Certificates of Occupancy for the single-family units may be withheld pending completion of the affordable senior apartments.
6. Height. Building heights shall conform to those shown in the approved development plans and shall not exceed 28 ft. in height. Building heights (including chimneys or other architectural appurtenances, if any) are subject to review by Airport Land Use Committee staff. Building height shall be measured as the vertical distance between the average finished grade and the topmost point of the building, and may be required to be reduced to 26 ft., if necessary.
7. Setbacks. Distances of buildings from property lines shall be in accordance with the approved development plan and tentative map.
8. Lot Coverage and Maximum Floor Area. Maximum lot coverage and floor area shall comply with the approved development plan. In addition, in accordance with Chapter 22 of the Zoning Ordinance, residential accessory structures shall be permitted.
9. Parking. For the single-family residential component of the project, off-street parking and guest parking in parking bays shall be provided as shown on the approved development plan. Off-street parking for the senior affordable apartments shall provided in accordance with the approved development plan. The allocation of tenant and guest parking spaces shall be in accordance with the Parking Management Plan and Operation Policy Agreement, approved by the Board of Supervisors.
10. Landscaping. Areas shown for landscaping on the approved development plan shall be landscaped in accordance with landscape plans approved by the Planning Director. This landscaping shall be in addition to any landscaping or tree planting required by mitigation measures contained in the certified Environmental Impact Report.
11. Design Review. The exterior colors and materials, architectural features and overall character of the structures shall be in accordance with the approved development plan.
12. Signage and Exterior Lighting. All signage shall be in accordance with the approved development plan. Exterior lighting shall be designed and located so that direct rays and glare are confined to the property. Any additional signage or lighting is subject to review and approval of the Planning Director.
13. Airport/Land Use Compatibility.
 - a. The project sponsor shall file FAA Form 7460-1, "Notice of Proposed Construction or Alteration" with the FAA Western-Pacific regional office. A copy of the filed form must be provided to the County of San Mateo Planning and Building Division.
 - b. The developer shall grant an avigation easement over the project site to the County of San Mateo, as the proprietor of the Half Moon Bay Airport, to (1) provide adequate disclosure to future occupants of the development, regarding

the proximity of each dwelling unit to the Half Moon Bay Airport and of potential impacts related to airport/aircraft operations, and (2) to protect the airspace in the vicinity of the airport for the safe passage of aircraft.

14. Second Story Access for Affordable Senior Apartments

The purpose of the following requirements is to facilitate aging in place for the senior affordable housing portion of the project:

- a. Exterior staircases, adjacent walls and landings, accessing second floor units, shall be designed, built and pre-wired to specifications required for the installation of approved stair-lift.
- b. Stair-lifts, with the features listed below, are to be installed within two weeks when requested by unit occupant(s). Stair-lift features shall include:
 - (1) Minimum load capacity 495 lbs.
 - (2) Platform to be of adequate size to accommodate power wheelchairs.
 - (3) Fold down seat.
 - (4) Power fold platform with Auto Fold Feature.
 - (5) Power ramps and power barrier arms.
 - (6) Non-slip surface at platform.
 - (7) Safety obstruction sensitivity at ramp edges and platform.
 - (8) Ability to back away from obstructions.
 - (9) Pendant remote control.
 - (10) ~~Call/Send stations at top and bottom of stair.~~
 - (11) Emergency alarm.
- c. Project owners shall at all times warehouse locally at least one approved stair-lift for timely installation.
- d. Stair-lifts shall be installed, periodically inspected and regularly maintained by the project owners at no cost to the unit occupant(s).
- e. All second floor occupants and potential second floor occupants shall be advised verbally and in writing as to their right to have a stair-lift installed and maintained within two weeks and at no cost.
- f. Project owners or their designee shall, at the time of stair-lift installation or client move-in, instruct stair-lift users verbally and in writing in the proper operation and use of the stair-lift.
- g. Project owners or their designee shall provide physical assistance to users of stair-lifts in the event of a stair-lift emergency, breakdown or power failure.
- h. Buildings shall be designed to provide weather protection above stairs accessing second floor units.

Section 2. Section 6115, Chapter 2, Part One, Division VI of the San Mateo County Ordinance Code (Zoning Maps) is hereby amended as shown in "Exhibit A" to eliminate the Affordable Housing District (R-3-A/S-5) boundaries; and to establish the PUD-129 district boundaries.

Section 3. This ordinance shall be in full force and effect 30 days after the Coastal Commission has certified it, without modification, as conforming with the California Coastal Act.

LAA:cdn - LAAK1070_WCQ.DOC

Regularly passed and adopted this 8th day of August, 2000.

AYES and in favor of said ordinance:

Supervisors:

MARY GRIFFIN

JERRY HILL

RICHARD S. GORDON

ROSE JACOBS GIBSON

MICHAEL D. NEVIN

NOES and against said ordinance:

Supervisors:

NONE

Absent Supervisors:

NONE

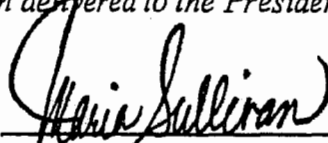
RICHARD S. GORDON

President, Board of Supervisors
County of San Mateo
State of California

Certificate of Delivery

(Government Code section 25103)

I certify that a copy of the original ordinance filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.

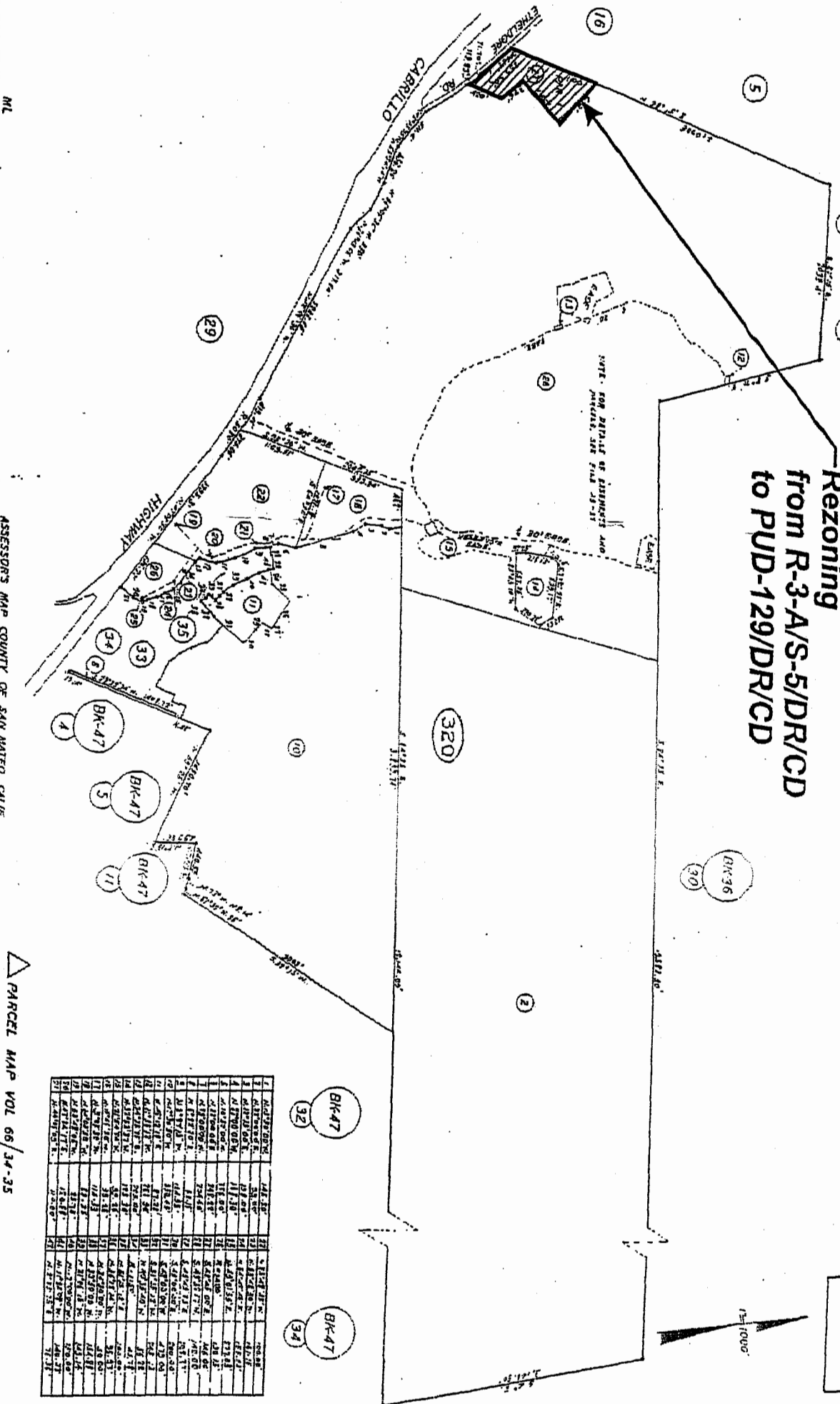


MARIA SULLIVAN, Deputy
Clerk of the Board of Supervisors

TAX CODE AREA

Rezoning from R-3-A/S-5/DR/CD to PUD-129/DR/CD

37-32



ASSESSOR'S MAP COUNTY OF SAN MATEO, CALIF.

PARCEL MAP VOL 66/34-35

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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PLN1999-00452
037-320-270

San Mateo County Planning & Building Division

Exhibit:

A

2 Regularly passed and adopted this 9th day of July, 2002.

AYES and in favor of said resolution:

Supervisors:

MARK CHURCH

JERRY HILL

RICHARD S. GORDON

MICHAEL D. NEVIN

NOES and against said resolution:

Supervisors:

NONE

Absent Supervisors:

ROSE JACOBS GIBSON

JERRY HILL

President, Board of Supervisors
County of San Mateo
State of California

Certificate of Delivery

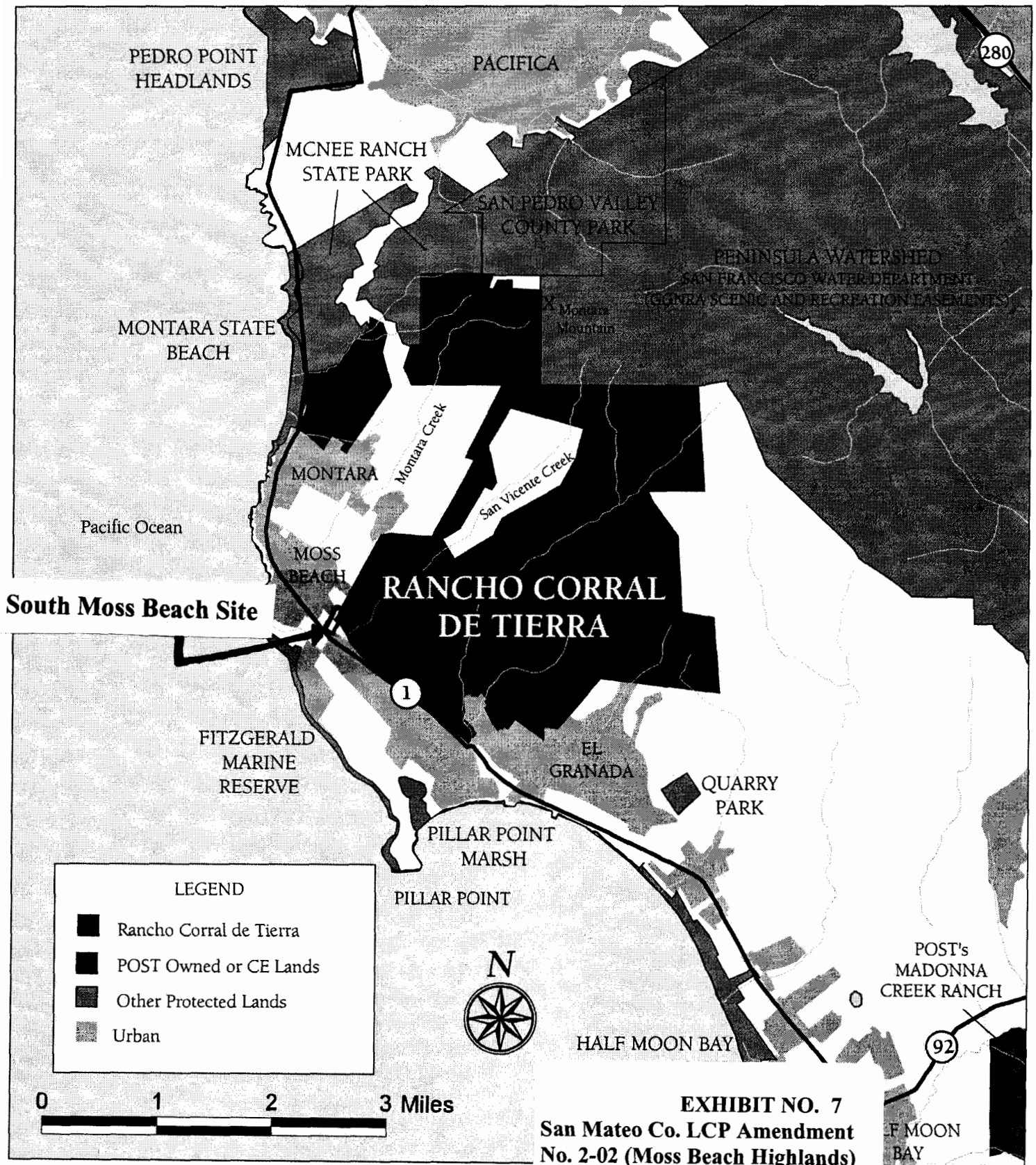
I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.

Ashnita Narayan

Ashnita Narayan, Deputy
Clerk of the Board of Supervisors

Peninsula Open Space Trust

Rancho Corral de Tierra (4,262 acres)



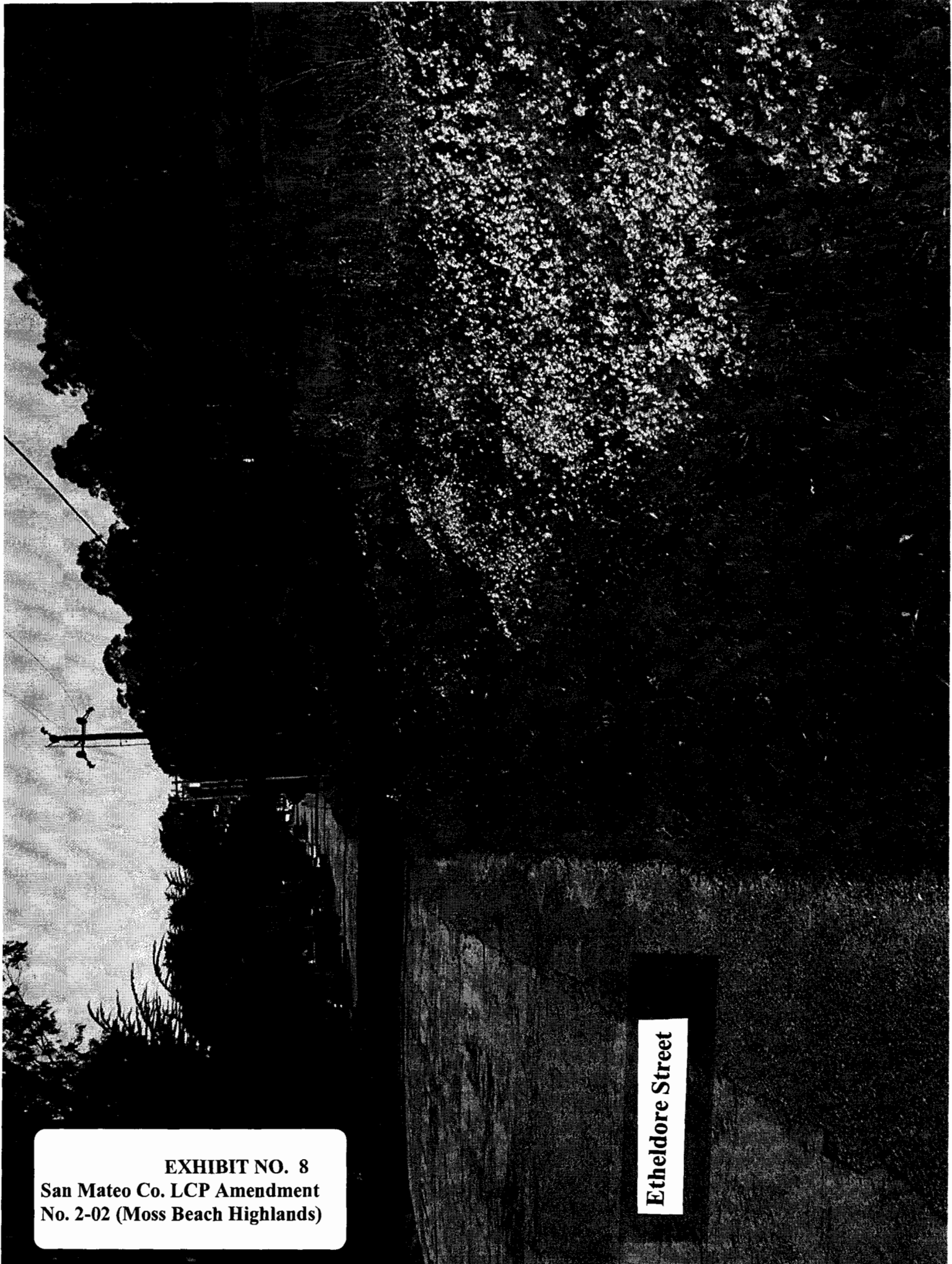


EXHIBIT NO. 8
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

Etheldore Street

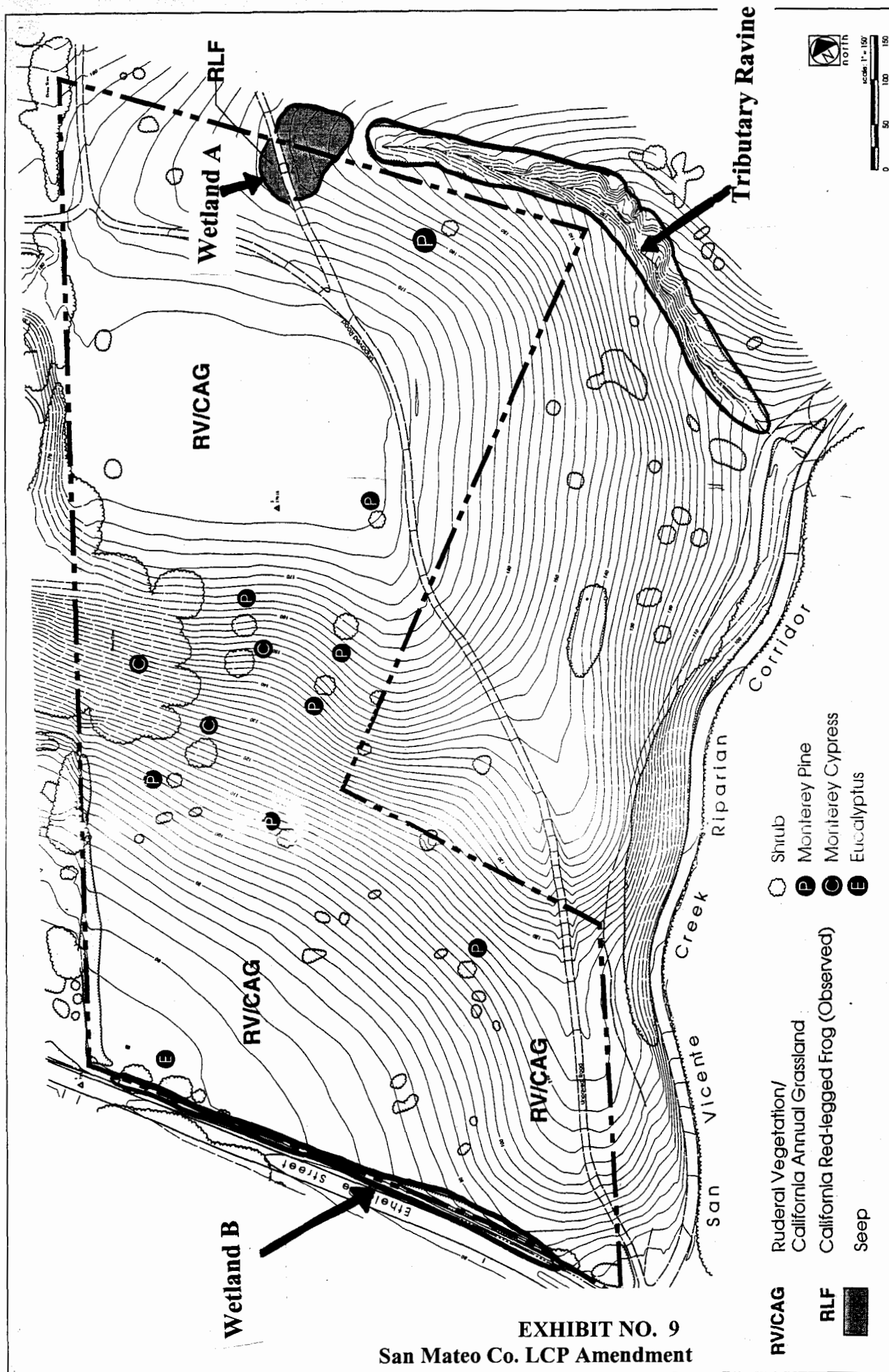


EXHIBIT NO. 9
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

CA01b: Base.dwg

MOSS BEACH HIGHLANDS

Figure IV.D-1

Biological Resources

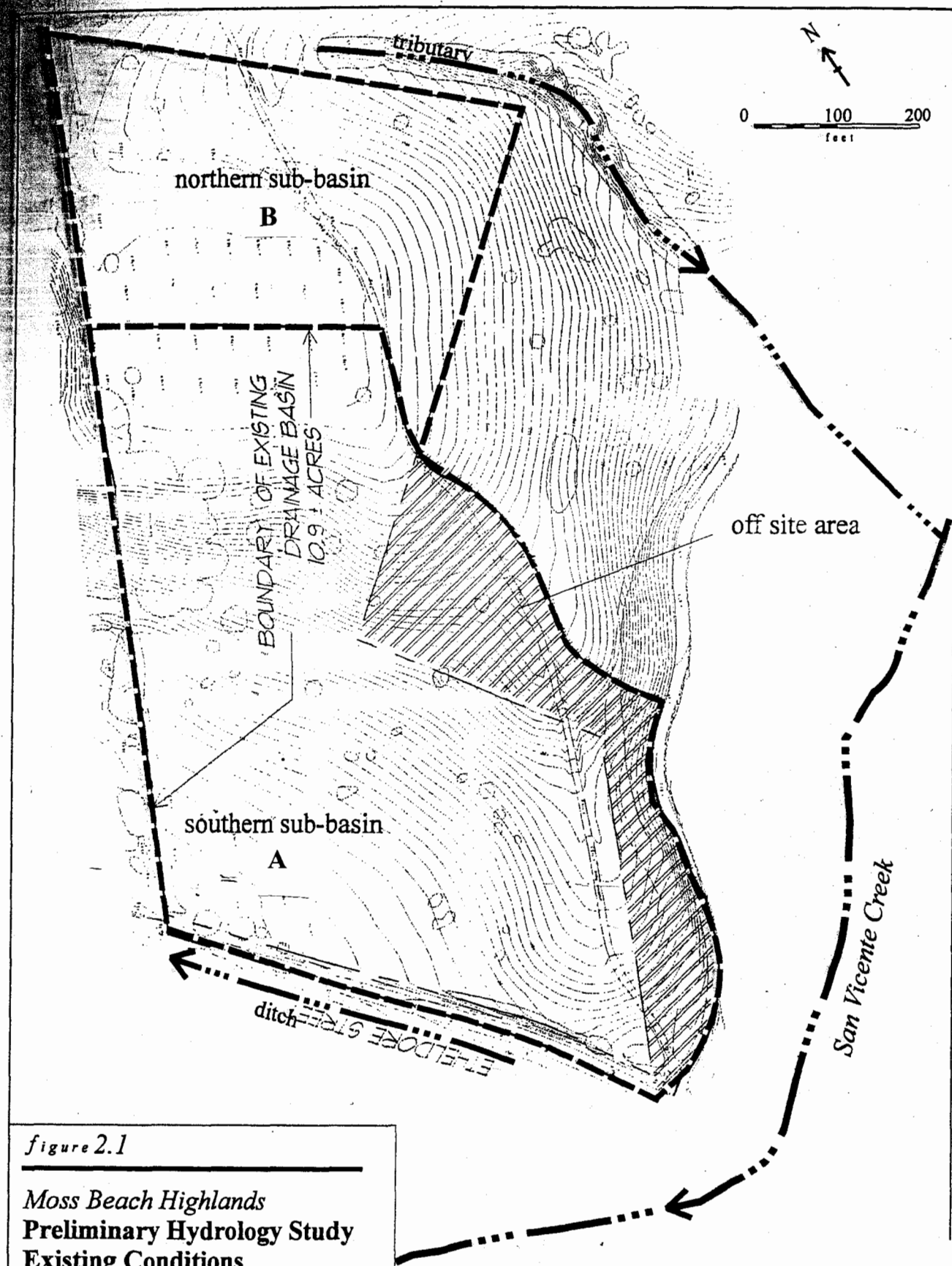


figure 2.1

**Moss Beach Highlands
Preliminary Hydrology Study
Existing Conditions**

Source: Ashley, 1997



1382 2.1 prelim hydro ex.cdr

**EXHIBIT NO. 10
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)**



**ENVIRONMENTAL
SERVICES
AGENCY**

Agricultural
Commissioner/ Sealer of
Weights & Measures

Animal Control

Cooperative Extension

Fire Protection

LAFCo

Library

Parks & Recreation

Planning & Building

RECEIVED

MAR 25 2004

CALIFORNIA
COASTAL COMMISSION

March 24, 2004

Steve Riter
Mission Valley Properties
5000 Hopyard Road, Suite 170
Pleasanton, CA 94588

Dear Mr. Riter:

SUBJECT: Moss Beach Highlands Project Revisions

You have asked the County to comment on some revisions to the Moss Beach Highlands project that you are considering to improve the project and to address issues raised by the Coastal Commission staff. Specifically, you have asked us to provide feedback on whether or not these revisions are within the scope of the approvals previously granted by the County, or if they will trigger the need for amendments to the approvals.

Background

In August 2000, the County approved the following for the Moss Beach Highlands project as proposed by Kaufman and Broad: (1) an Environmental Impact Report (EIR), (2) an LCP amendment, (3) rezoning to PUD, (4) a Tentative Map, (5) a Coastal Development Permit, and (6) a Grading Permit. The LCP amendment, the rezoning and an appeal of the Coastal Development Permit currently remain pending before the Coastal Commission.

We understand the changes you are contemplating to the project to include the following: (1) an increase in the volume of grading, in part to decrease the project's visual impact; (2) removal of additional significant trees, largely as a result of the change in grading; (3) elimination of the detention pond in favor of alternative storm water management measures; (4) possible elimination of the tot lot; (5) relocation of the multi-family buildings toward Etheldore Street, away from the steeper slopes at the center of the lot; (6) relocation of the road and a number of the single-family lots, largely to decrease the visual impact of the project; and (6) possible elimination of the redundant pipeline, substituting instead a connection to nearby Montara Water and Sanitary District (MWSD) facilities for emergency or fire protection purposes. Most of these revisions are shown on the site plan you submitted to us, prepared by William Hezmalhalch Architects, Inc., dated March 21, 2003.

EXHIBIT NO. 11

**San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)**

PLANNING AND BUILDING

455 County Center, 2nd Floor • Redwood City, CA 94063 • Phone (650) 363

Steve Riter
March 24, 2004
Page 2

Moss Beach Highlands Project Revisions

Discussion

I have reviewed the above-referenced site plan and the additional materials you have submitted related to the proposed changes. I have also reviewed the EIR, the staff reports and the conditions of approval issued for the project. Although additional information and analysis would be required to provide you with a definitive answer, my preliminary assessment is that all of the above revisions would fall within the scope of the existing approvals, except elimination of the tot lot and the proposal to hook up to MWSD facilities. The project remains essentially the same as the approved version, and the proposed revisions constitute incremental changes that do not raise any new issues that were not evaluated in the EIR and considered as part of the approval process.

However, elimination of the tot lot could conflict with LCP Policy 3.15 (*Designated Housing Sites*), specifically Section d.(4), which requires the provision of amenities including, but not limited to, recreation facilities. In addition, not enough is known at this time about how elimination of the redundant pipeline and hook up to MWSD facilities would be accomplished to determine if that proposal might fit within the existing approvals.

I hope you will find this preliminary review of the proposed revisions useful, as you continue to work with the Coastal Commission staff toward approval of the project. The County continues to support the project, as its completion will enable the County to meet its regional housing need as specified by State Housing Element Law. Please let me know if you have any questions or need additional information.

Sincerely,



Lisa Aozasa
Project Planner

LAA:kcd - LAAO0371_WKN.DOC

cc: Terry Burnes, Planning Administrator
Michael Murphy, County Counsel
Tobi Liebermann, Mid-Peninsula Housing Coalition
Sarah Borchelt, California Coastal Commission

9.18 Regulation of Development on 30% or Steeper Slopes

- a. Prohibit, unless no alternatives exist, development (including land divisions which would create parcels exclusively) on slopes of 30% or greater. If no alternatives exist, require engineering geologic reports to enable minimizing of hazards.
- b. Employ the siting and grading criteria of the Design Review Zoning Ordinance and the Community Design Manual for Development on Slopes 30% or Greater.

11.15 Private Recreation and Visitor Serving Facilities

- a. Require that private recreation and visitor-serving facilities conform to: (1) the development and locational standards included throughout this component and as referred in other components, and (2) the design standards of the Visual Resources Component.
- b. Require that private recreation and visitor-serving facilities conform to the intensities of use appropriate to the rural or urban setting and to the requirements of the individual site. In rural areas, limit visitor-serving development to water supply requirements of 630 gallons per density credit.

ZONING DISTRICT REGULATIONS IN EFFECT ON MAY 28, 1998

CCR District

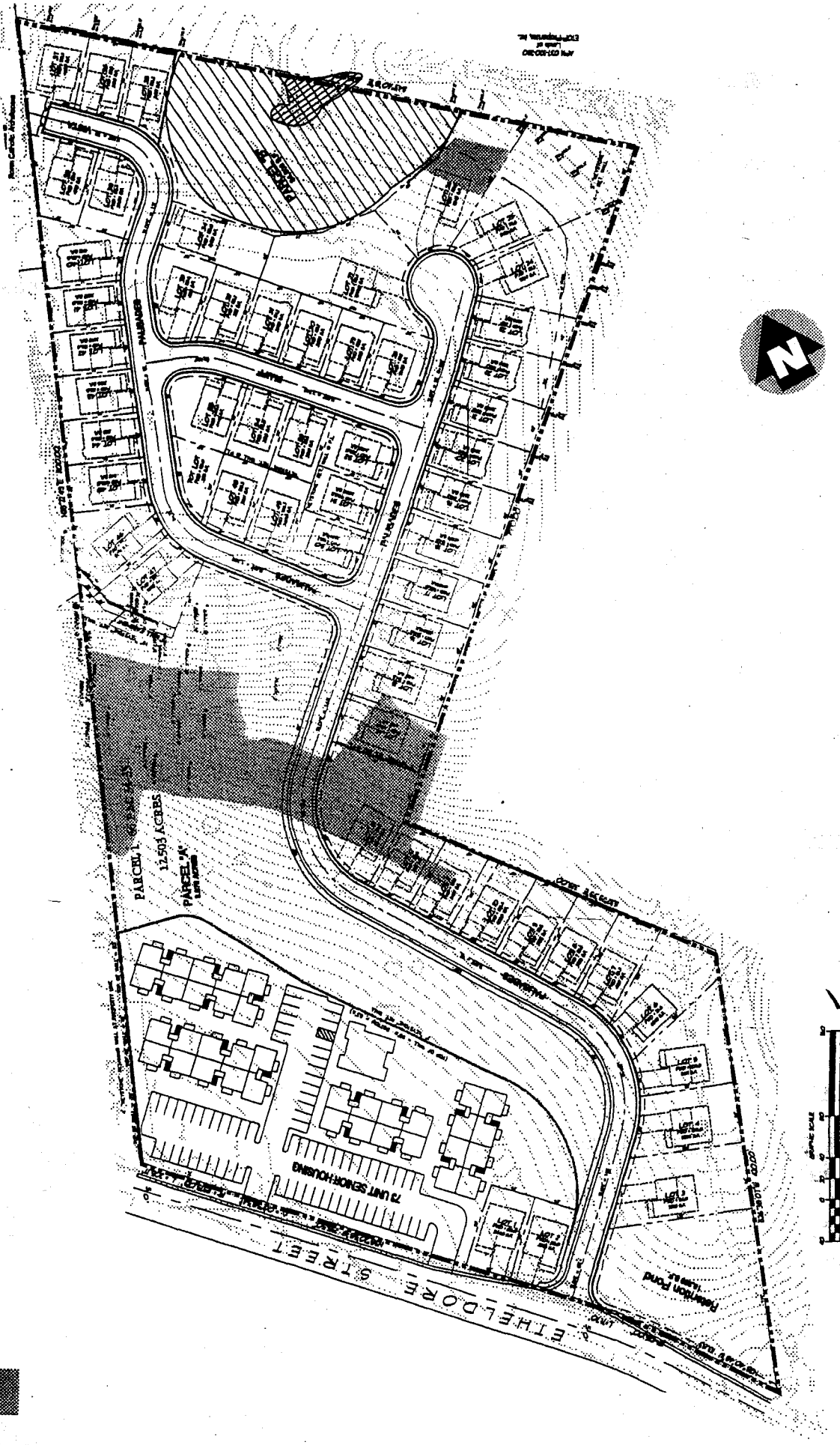
Section 6269. Development Standards

- 3. Building Height Limit. The maximum building height is thirty-six (36) feet, except when a lower limit is imposed in accordance with this chapter. Height is measured from finished grade to the highest point of the roof.

CD District

Section 6328.7. Application Requirements. Application for a Coastal Development Permit shall be made to the Planning and Building Division on forms provided by the Planning Director. Where required by this Chapter, application for a Coastal Development Permit shall be made prior to or concurrently with application for any other permit or approvals required for the project by the San Mateo County Ordinance Code. The application for a Coastal Development Permit shall be accompanied by:

Moss Beach Highlands Site Plan



COUNTY OF SAN MATEO

Office of the County Counsel

To: Honorable Members, San Mateo County Planning Commission
From: County Counsel
Subject: Response to Legal Issues Regarding
the Moss Beach Highlands Project
Date: April 6, 2000

You have asked us to respond to the legal issues raised in comments to the draft environmental impact report (DEIR) for the Moss Beach Highlands project, particularly those contending that the project lacks consistency with the San Mateo County Local Coastal Program ("LCP").

I. Application of LCP Policy 8.7 (Ridgelines and Skylines)

During public comment, questions have arisen as to whether the project is consistent with LCP policy 8.7. From a legal perspective, the project presents a fairly unique situation in that the basic parameters of the project are part of the LCP itself. The project seeks to implement a designated affordable housing project as outlined in LCP policy 3.15. As a result, the legal analysis is not simply how to apply LCP policies to a new development, but rather, what is the relationship among potentially competing LCP policies. For this reason, this memo will provide a brief summary of the legislative history of LCP policy 3.15, basic rules for interpreting legislation, and then, four possible options that the Commission may want to consider.

A. Legislative History and Background of LCP Policy 3.15

At the time the LCP was first enacted in 1980, the California Coastal Act provided that "[h]ousing opportunities for persons of low and moderate income shall be protected, encouraged, and where feasible, provided. ..." (Former Pub. Res. Code, § 30213.) This requirement is now codified in Government Code section 65913.1 which requires local government to designate and zone sufficient vacant land for low- and moderate-income housing and Government Code section 65590 which requires the creation of new low- and moderate-income housing units when feasible in the coastal zone. (Gov. Code, § 65590.)

During the initial LCP planning process in 1980, county staff conducted a comprehensive analysis of coastal housing, determining both existing and projected needs for affordable housing on the coast. For the Mid-Coast, staff estimated the need for low and moderate income housing at 405-740 units. Regional Coastal Commission staff recommended that the LCP's Land Use Program ("LUP") designate 35 acres for new medium-high density affordable housing developments to provide reasonable assurance of creating 500 affordable units in the Mid-Coast. The County chose to designate three (3) sites for affordable housing projects. In discussing the

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April 6, 2000

Re: Response to Legal Issues Regarding
the Moss Beach Highlands Project

designated sites, the LUP specifically describes them as projects that would be 50% affordable and that could be developed by public agencies, nonprofit organizations, private developers or by a combination of these. The LUP further states that "[a]ppropriate steps could be taken to insure that these sites are used to help meet LCP housing goals while protecting the natural features of the sites and integrating development with adjacent communities."

In selecting particular sites in the Mid-Coast, county staff considered the urban infill strategy on which the Montara/Moss Beach/El Granada Community Plan ("Mid-Coast Plan") was based. Staff found that there were several sites large enough in the urban area to offer some economies of scale, including a 6-acre site at Etheldore and Highway 1. Staff described these sites as having good access to roads, community facilities and utilities. Staff further acknowledged that "[a]ll could be developed with reasonable ease, although . . . development on the site in southern Moss Beach would have to be designed so that the sensitive riparian habitat along San Vicente Creek through the site would be protected." For the southern Moss Beach site, staff further found that it could be a logical extension of the residential block formed by Etheldore and Highway 1. The County therefore included the 6-acre Highland site as one of the three designated sites. In 1982, the County added an additional 6.5 acres to the site. In 1985, the Planning Commission approved a concept plan for a subdivision of 218 units using both the lower and upper terraces of the site and found that the plan was in conformance with the General Plan and LCP.

Currently, LCP policy 3.15 provides that the Highlands site shall be designated as Medium High Density to incorporate a density bonus within the land use designation. The General Plan defines Medium High Density as allowing 8.8 to 17.4 dwellings per acre, which for this site is 110-218 units. The project is designated in the LCP as a priority land use, and the full 218 units were included in determining the amount of capacity to be reserved for priority land uses during the buildout phase. (LCP Tables 2.7 and 2.17.) Additionally, policy 3.15(c) provides that the site shall be rezoned to Planned Unit Development (PUD) to allow flexible residential development standards. Policy 3.15(d) directs that in evaluating proposals to develop the designated sites, certain criteria will be applied. Pertinent here, policy 3.15(d)(3) states that development must comply with all of the regulations established for Structural and Community Features (Urban), as established in the Visual Resources Component.

From reading the legislative history and discussions with staff, it appears that the Highlands site was intended to be developed as a designated site with medium-high density and 50% affordable units. It was envisioned that the upper portion of the site would be developed. Other than the reference to the San Vicente Creek, the legislative history does not mention any other specific potential impacts of the Highlands project or its relationship with other LCP policies. However, there is the general comment that appropriate steps be taken in developing designated sites to protect the natural features of the sites and integrate the development with adjacent communities.

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Re: Response to Legal Issues Regarding
the Moss Beach Highlands Project

There is nothing in the legislative history of LCP policy 8.7 that discusses its application to the designated affordable housing sites. Both LCP policies 3.15 and 8.7 were certified by the Coastal Commission as being consistent with the California Coastal Act.

B. General Rules of Legislative Construction

The principal goals in interpreting legislation are (1) to ascertain the intent of the enacting body to achieve the purpose of the law and (2) to give a provision a reasonable and common sense interpretation that is consistent with the apparent purpose, which will result in a wise policy rather than mischief or absurdity. Additionally, if more than one legislative provision applies to the same subject, the provisions must be harmonized with each other to the greatest extent possible. Seemingly conflicting or inconsistent provisions should be reconciled whenever possible. In fact, all presumptions are against finding that one provision has impliedly repealed the other. One must look for any possibility of concurrent operation that will maintain the integrity of both provisions so that the two may stand together. If there is no rational basis for harmonizing the two provisions, a conflict may be found. In that event, other principles of interpretation may apply. If one provision is specific and the other more general, effort must be given to apply both provisions if possible, but if they are irreconcilable, the special provision will act as an exception to and take precedence over the general one. Additionally, if a provision contains an expression of one act or thing as coming within the operation of the provision, it may be concluded that the intent is to exclude other acts or things.

There are also three specific considerations which are relevant here. First, Government Code section 65300.5 requires that the elements of a general plan comprise an integrated, internally consistent and compatible statement of policies. A local planning agency must look to find consistency between elements of a general plan. Second, a given project must also be consistent with the general plan. To achieve this requirement, the project need not be in perfect conformity with each and every general plan policy, but it must be "compatible with" the objectives, policies, general land uses and programs specified in the general plan. Third, in the event there is a conflict between one or more policies of the Coastal Act, the Legislature has declared that such conflicts may "be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature [has] declare[d] that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies." (Pub. Res. Code, § 30007.5.)

C. Interpreting LCP Policies 3.15 and 8.7

LCP policy 8.7 was originally enacted in 1980 at the same time as the predecessor for policy

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3.15. Policy 8.7 has been amended at least twice in 1986 and 1998. Since the application for the Highlands project was completed prior to the certification of the 1998 amendments, it is subject to the former 1986 version. That version (entitled "Ridgelines and Hilltops") provides in pertinent part: "[¶] a. Prohibit the location of new development on ridgelines and hilltops unless there is no other buildable area on the parcel. . . . [¶] d. Prohibit land divisions which would create parcels whose only building site would be on ridgelines or hilltops." There is no definition of ridgelines or hilltops in the LCP, but the General Plan Policy 4.7 defines ridgelines as "the tops of hills or hillocks normally viewed against a background of other hills" and a "skyline" as "the line where sky and land masses meet."

The Highlands project covers 12.5 acres with a flat lowland area in the west, a gradual to moderately steep hill in the central portion, and a flat plateau area in the east. It has significant areas of steep slopes. The project intends to develop a 73-unit, two-story multi-family portion on the lower 4.5 acre terrace and a 55-unit, two-story single family dwelling portion primarily on a 6.5 acre terrace in the plateau area. If "ridgeline" or "hilltop" is defined by topographical indicators, a ridgeline appears to run through the upper single family dwelling portion. If a ridgeline or hilltop is defined by views from public roadways, the impacts of the project are significantly less or non-existent. At this point, the project has been redesigned to remove single family residences that were visible from southbound Highway 1. (DEIR Figure IV.H-8.) Looking north at the project from Highway 1, the houses are placed against a silhouette of existing trees and thereby do not break the ridgeline. (DEIR Figure IV.H-9) Additionally, Mitigation Measure VIS-3b requires screening to mitigate the visual impacts of the line of buildings from the northbound view. Therefore, dependent upon how the term "ridgeline" is interpreted, there may be a conflict between policy 8.7 which protects ridgelines and hilltops and policy 3.15 which allows a medium-high density, 50% affordable housing development on the site. We believe that the Commission has at least four possible options to consider:

(1) Interpret Policy 8.7 Strictly as Prohibiting Development on Ridgelines. This is the position taken in the letter submitted by Shute, Mihaly & Weinberger, L.L.P., on behalf of the Moss Beach Neighborhood Coalition for Intelligent Development. The Shute letter contends that development cannot be approved on the upper terrace because the lower terrace area is a buildable area within the meaning of LCP policy 8.7(a). The letter also contends that it violates policy 8.7(c) relating to divisions of land on a ridgeline. The letter therefore suggests that the project must be redesigned or the LCP must be amended.¹

¹ The Shute letter also contends the project violates the 1998 version of LCP policy 8.7(b), but that section was newly adopted in 1998, and therefore, is not applicable here.

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The benefit of the Shute position is that it ensures strict compliance with LCP policy 8.7. It adopts an interpretation of the policy that is most protective of visual resources by assuming that no development may occur on or near a ridgeline, presumably as defined by topographical indicators. However, this will at least create a potential conflict with LCP policy 3.15 which allows development on the site up to 218 units and the legislative history of that policy which shows that development was intended to occur on the upper terrace. The only way that this interpretation of policy 8.7 could be harmonized with policy 3.15 is if the upper terrace units are relocated. There is evidence that such a redesign is not feasible. There are significant site constraints. This may implicate other LCP policies such as the one that limits development on slopes greater than 30%. Additionally, by massing development in one area, the development may not be compatible with the community, and it may create new impacts on the adjacent neighborhood. If relocation is not possible, there will be a direct conflict with policy 3.15. Furthermore, most of the market rate units would be lost, thereby making the affordable project economically infeasible in conflict with Government Code section 65589.5 which prohibits the imposition of conditions on an affordable housing project that makes it infeasible for development.

(2) Interpret Policy 8.7 as Defining Ridgeline When Viewed from a Public Highway.

This is a position described in a letter from the Committee for Green Foothills. The letter first states that policy 8.7 was amended in 1986 as part of Measure A and points to section 7 of the Measure which provides that "[i]n the case of conflict with other policies of the Local Coastal Program or other county plans, ordinances, regulations or policies, the provisions of this ordinance shall govern." The letter therefore objects to any interpretation that would override policy 8.7 and contends that Measure A overrides the County's discretion to do so. However, the letter further suggests that there are reasonable options for modification of the project to ensure compliance with policy 8.7. The letter suggests that the site plan and elevations be reviewed and adjustments made to the project to prevent the projection of structures above the ridgeline as viewed from Highway 1.

We do not believe that the Commission needs to address the argument relating to section 7 of Measure A because this approach otherwise provides a resolution that avoids any conflict and the need to determine whether one of the two policies will control over the other. The approach suggested by the Committee on Green Foothills follows the general rules of interpretation to harmonize potentially conflicting provisions so that they may apply simultaneously to the same object. It interprets the policies in a manner that maintains the consistency of the LCP and the integrity of each policy in it. Further, this interpretation is analogous to General Plan policy 4.27, which applies in rural areas. That policy discourages structures on open ridgelines and skylines in rural areas when seen as part of a public view. A public view is defined as a range of vision from a public road or other public facilities. The downside of this approach is that it may

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not be considered as protective of visual resources when compared to the more stricter interpretation of policy 8.7 described above. This approach may reduce the project by removing or adjusting some of the housing units on the upper terrace area. It may be contended that this interpretation creates precedent for other projects.

(3) Interpret Policy 3.15 as Excluding Policy 8.7. At the Commission's last hearing, staff tentatively suggested that one could interpret policy 3.15 as excluding policy 8.7. Looking at the language in 3.15, the policy outlines explicit development requirements including the direction in section (d)(3) that "[d]evelopment must comply with all of the regulations established for Structural and Community Features (Urban), as established in the Visual Resources Component." Since LCP policy 8.7 is not contained in the Structural and Community Features section of the Visual Resources Component, it could be interpreted that it is expressly excluded from operation on designated housing sites.

The benefit of this position is that Policy 3.15 may be fully implemented and that the project may proceed as originally intended under both the project plans and the legislative history of the policy. This is consistent with the LCP in that it encourages flexible design standards for designated affordable housing sites. It would also mean that the decision will have no precedential effect on other projects outside the three designated affordable housing sites. This position is also supported by the rule of interpretation that a "specific" provision will prevail over a more "general" provision. The negative aspects of this option are that the protections of LCP policy 8.7 will not be implemented. Additionally, the project has accommodated other LCP policies, most notably the policy on wetlands, which are not cited in policy 3.15.

(4) Find that a Conflict Exists and Apply Policy 3.15 over Policy 8.7. If it is determined that policies 3.15 and 8.7 cannot apply together, the Commission may find that there is a conflict. Under rules of interpretation, it could be determined that policy 3.15 would prevail since it is more specific than the general rule in policy 8.7. Additionally, the legislative intent behind policy 3.15 demonstrates that development on the upper terrace was intended. Moreover, under the balancing test under the California Coastal Act, it could be found that the broader policies of affordable housing and the critical need for such housing outweigh the values in the visual resource policies.

The benefit of this approach is that it allows the current project to move forward to maximize critically needed affordable housing. The project has taken steps to reduce the most serious breaches of the ridgeline policy by relocating units and the remaining houses pose only minor ridgeline conflicts, if any conflict at all. It can be argued that the project meets at least the intent of the ridgeline policies, and that a technical application of those policies should not undermine the feasibility of much needed affordable housing. It also can be argued that the project is in an

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April 6, 2000

Re: Response to Legal Issues Regarding
the Moss Beach Highlands Project

urban area where ridgeline policies are not as critical as the rural area, and that the important need for affordable housing should prevail. It will be consistent with the Government Code provisions that require the encouragement and development of affordable housing. The downside is that it overrides the visual resource protections in policy 8.7. There may also be concern that applying the balancing test here opens the door for the test to be applied elsewhere.

II. Compliance with LCP Policy 8.5 (Structures)

The Shute letter contends that the project will violate LCP policy 8.5 because its development will be visible from Highway 1, a County-designated scenic road. The letter asks that the project be redesigned or the LCP be amended.

The letter cites the new version of policy 8.5. The former version, which is applicable here, was entitled "Structures" and requires that the project "[m]inimize the number of structures located in open fields and grassland areas; require that structures be designed in scale with the rural character of the region, and that they be clustered near existing natural or manmade vertical features." The DEIR found that it was consistent with the adjacent community because the location, height, bulk and colors of the proposed homes were in keeping with the single family uses in Moss Beach. The project has been designed to accommodate the existing natural features of the site. The project was designed to maintain the existing cypress grove. It was sited to step up the hillside, and it has been adjusted to move the senior apartment portion back against the slope and backdrop of the hill. To the best of our knowledge, no structures will be located in open fields or grasslands visible from public highways. Additionally, to address the view issue, the project has been modified to eliminate some of the homes visible from southbound Highway 1. Mitigation Measure VIS-3b also requires landscaping to mitigate visual impacts from northbound Highway 1. It is therefore possible to conclude that the project is consistent with both the former and the new version of policy 8.5.

III. Compliance with LCP Policy 3.16

The Shute letter also contends that the project is inconsistent with LCP Policy 3.16. (Phasing the Development of Designated Housing Sites.) That section limits the number of affordable housing units given building permits for construction on designated sites to 60 during any 12-month period in order to allow the affordable units constructed on the designated housing sites to be assimilated into the community a few at a time. The Shute letter contends that the County proposes to amend this section to allow more than the 60 units per year, and thus, the EIR cannot assume that any environmental impacts are mitigated because any amendment requires the approval of the Coastal Commission.

No amendment of LCP policy 3.16 is necessary here. Section (b) of Policy 3.16 currently allows

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the Board of Supervisors "to increase the number of affordable housing units permitted if it is found that the above phasing requirement threatens the implementation of affordable housing on a designated site by prohibiting the developer from building when circumstances are uniquely favorable for a limited period of time (i.e., low interest rate financing or public subsidies are available.)" Thus, the current LCP includes situations in which an exception to the rule may be granted. It is the applicant's intention to ask the Board to grant such an exception.

IV. Consistency with LCP Policies 1.18 and 1.19

The Shute letter next contends that the project is inconsistent with LCP Policies 1.18 and 1.19 related to growth management. Specifically, the letter argues that the project fails the requirement under policy 1.18(b) to concentrate new development in urban areas and rural service centers by requiring the "infilling" of existing residential and commercial areas. Policy 1.19 defines "infill" as the development of vacant land in urban areas and rural service centers which is (1) subdivided and zoned for development at densities greater than one dwelling unit per 5 acres and/or (2) served by sewer and water utilities.

Policies 1.18 and 1.19 have traditionally been viewed as general policies that guide how the County should adopt its ordinances and they were not intended to address a particular and unique circumstance like this project. Nevertheless, there are grounds to conclude that the project has complied with the policies. The project is on a site that was designated for development in the LCP at the same time the other policies were adopted. The legislative history indicates that staff chose the designated site based on the infill strategies of the Mid-Coast Plan. It was felt that the site was a logical extension of other development at Etheldore and Highway 1. LCP Policy 3.15 designated the density and scope of development for the site.

V. Consistency with LCP Policy 2.14

The Shute letter contends that the project is inconsistent with LCP policy 2.14(b) which requires the redrafting of boundaries of special districts or public utilities providing urban level services to correspond to the boundaries of urban areas. The letter contends that the Montara Sanitary District is available to provide water service to the site and that the EIR should analyze the feasibility of MSD as an alternative water provider.

LCP Policy 2.14, under the Public Works Component, is a policy which has traditionally been seen as one of general application that provides direction to the County. It has not been interpreted as imposing a requirement or condition to approving a specific project. Policy 2.14 simply directs mapping requirements without any specification as to timing. It does not state that the maps need to be adjusted before a project may be approved. Additionally, after this LCP

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policy was enacted, there has been a court ruling that the annexation and determination of local government boundaries has been preempted by State law. (L.I.F.E. v. City of Lodi (1989) 213 Cal.App.3d 1139.) The determination of most local agency boundaries and service areas is determined by the Local Agency Formation Commission (LAFCo). It may therefore be legally questionable whether the county could impose the requirement suggested. Additionally, while MSD has the active power to provide water service, it is our understanding that it does not presently have the infrastructure or water resources to provide actual services at this time. In granting MSD the power to provide water services, the Legislature also expressly stated that any water service by MSD could not affect the approval or development of a project that includes units for lower income and moderate income persons. (Health & Saf. Code, § 6512.7.)

Given these considerations, it would be reasonable to conclude that Policy 2.14 does not apply in the manner suggested by the Shute letter. Moreover, a feasible alternative under the California Environmental Quality Act (CEQA) is one which can be "accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." (Pub. Res. Code, § 21061.1.) Coastside County Water District (CCWD) is a service provider that is capable of providing service to the site within the immediate future, and it is our understanding that the project has or will receive water service from CCWD. Given the lack of ability to provide actual water service within the immediate future and the admonition of the Legislature in Health and Safety Code section 6512.7, it would be possible to conclude that water service by MSD is not a feasible alternative that requires consideration in the EIR.

VI. Adequacy of the EIR

The Shute letter also contends that the EIR is inadequate. The determination on adequacy of the EIR is made by the Commission and ultimately the Board of Supervisors. The following discussion intends to provide information to assist in that determination.

A. Project Description.

The Shute letter asserts that the project description is inadequate because (1) it fails to acknowledge the number of amendments to the LCP that the letter believes are necessary for approval of the project and (2) the discussion of the sizing of the water pipeline that will serve the project is contradictory.

The only LCP amendments that are recommended at this time are a PUD zoning ordinance and the changes to LCP Policy 3.15(d)(2) to adjust the levels of affordability. The other amendments are those suggested by the Shute letter, and it will be up to the Commission and the Board to decide whether it will choose an interpretation of LCP requirements that may trigger further

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amendments. As to the water pipeline, the DEIR discusses the possible alternatives that may be required for the project by the various jurisdictions that will determine the size of the pipeline. Additional information related to the pipeline is provided in Master Response M-1 in the response to comments to the DEIR. At this point, since the jurisdictions have not made the final determination, the DEIR could not delineate the exact size of pipeline that will be used. Rather, the DEIR addressed the situation by outlining the possible alternatives.

B. Adequacy of Analysis of Growth-Inducing Impacts.

The Shute letter asserts that the DEIR fails to address adequately potential growth-inducing impacts. In particular, the letter is initially concerned about the use of two 12-inch water lines that are proposed to run adjacent to and through lands outside the County's urban services boundary. The letter disagrees with the idea of providing two lines for water service. It acknowledges that the DEIR discussed potential growth-inducing impacts, but the letter contends that the environmental documents fail to analyze the environmental effects of those impacts. The letter also takes issue that the DEIR did not address potential growth-inducing impacts of the LCP amendments that the letter believes are necessary for approval of the project.

An EIR is required to analyze environmental effects of future expansion or other action if it is a reasonably foreseeable consequence of the initial project, and the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal. 3d 376, 396.) An agency is required to forecast only to the extent that an activity could be reasonably expected under the circumstances. Potential environmental effects of the water pipeline are discussed at pages IV.J-5 to IV.J-12 in the DEIR and in Master Response M-1 in the FEIR. Master Response M-1 states that the 12-inch water supply pipeline was sized to accommodate fire flow requirements and domestic supply needs for this project only in accordance with required fire flow and standard engineering practices. Future development cannot use the redundant water line to draw water. Additionally, the project represents the northern limit of CCWD's service area. Other portions of Moss Beach and Montara are outside CCWD's boundaries. Adjacent areas may also be on the rural side of the urban/rural boundary and extension of service may require amendment of the LCP. There is no indication that the pipeline was intended as a catalyst for future development, but only to serve the affordable housing project. It could therefore be concluded that it was not reasonably foreseeable that the project would induce growth or further environmental effects associated with that growth.

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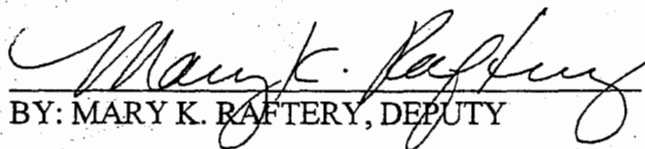
C. Adequacy of Feasible Alternatives.

The Shute letter finally contends that the EIR fails to provide an adequate range of alternatives. The letter suggests that there should have been other alternatives of less density. The letter advocates an alternative that (1) limits development to 104 units, (2) requires the phasing of development over two years, (3) does not allow development of the ridgeline, (4) preserves portions of the site visible from Highway 1 as open space and (5) assesses the feasibility of MSD as a water provider. The letter also complains that the rejection of the Farallon Vista site was inadequate because the EIR fails to explain why the water service issues for that site are different from the water issues at the project site.

An EIR must consider a reasonable range of alternatives to a project which: (1) offer substantial environmental advantages to the project proposal (Pub. Res. Code, § 21002) and (2) may be "feasibly" accomplished. (Pub. Res. Code, § 21061.1.) An EIR need not consider every conceivable alternative to a project. Rather, the requirement is reasonableness. (Save Our Residential Environment v. City of West Hollywood (1992) 9 Cal.App.4th 1745, 1752.) An alternative is "feasible" and therefore worthy of consideration only if it is capable of being accomplished in a successful manner taking into account economic, environmental, social and technological factors." (Pub. Res. Code, § 21061.1.) The requirement must be sufficiently specific to permit informed decision-making and public participation, but the requirement should not be construed unreasonably to defeat projects easily.

The determination whether the alternatives in the EIR are adequate is up to the Commission and the Board of Supervisors. The DEIR discussed four alternatives, and one of the four alternatives was further revised in response to comments. There is no magic number, and it is possible for the Commission to conclude that these alternatives were adequate. It is also possible to find that the alternative suggested by the Shute letter is infeasible in that it does not meet the objectives of LCP policy 3.15 as described here or is not capable of being accomplished in a successful manner within a reasonable amount of time.

THOMAS F. CASEY, III, COUNTY COUNSEL


BY: MARY K. RAFTERY, DEPUTY

cc: Michael P. Murphy, Chief Deputy County Counsel
Terry Burnes, Planning Administrator

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Moss Beach Highlands Site Plan

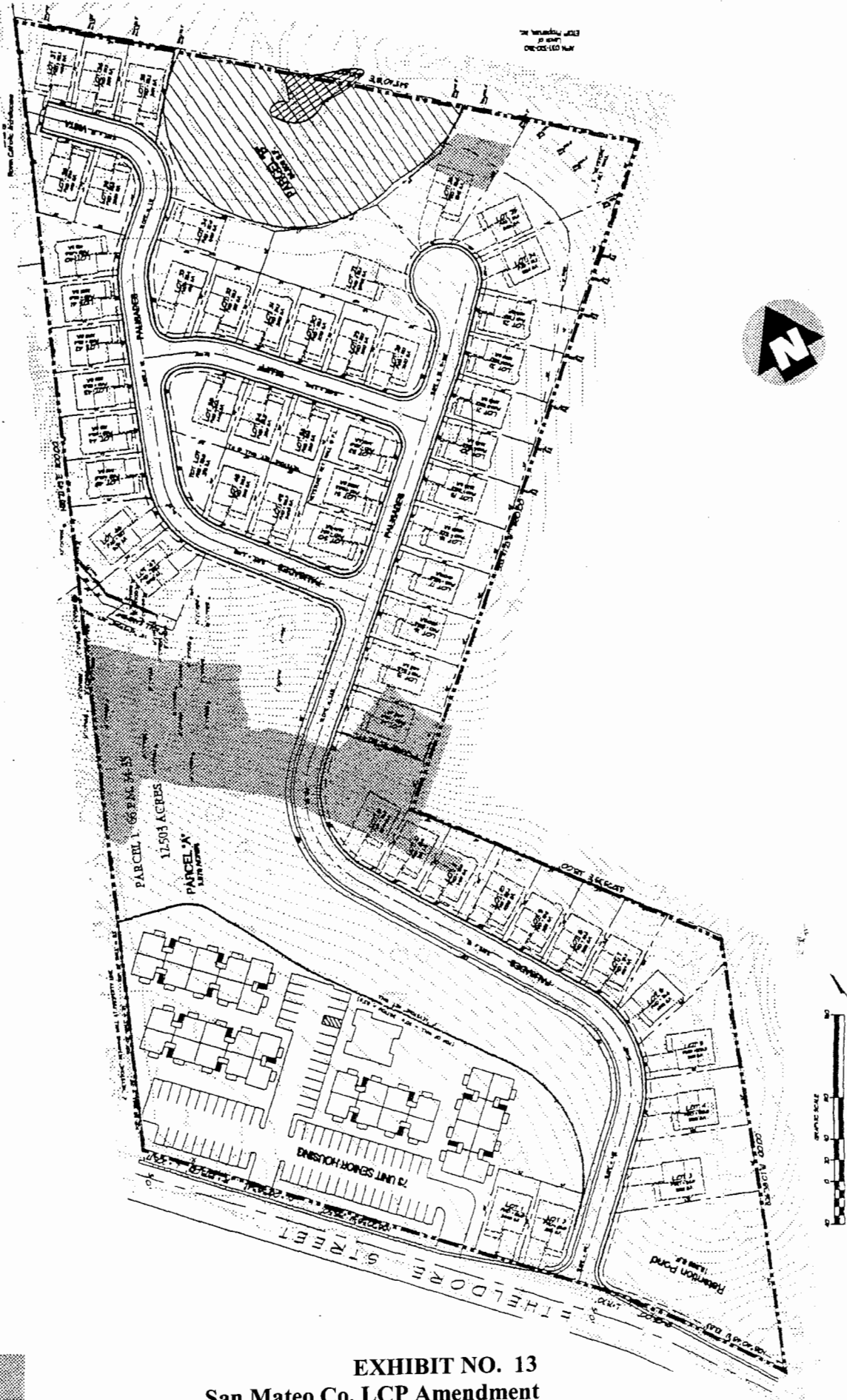
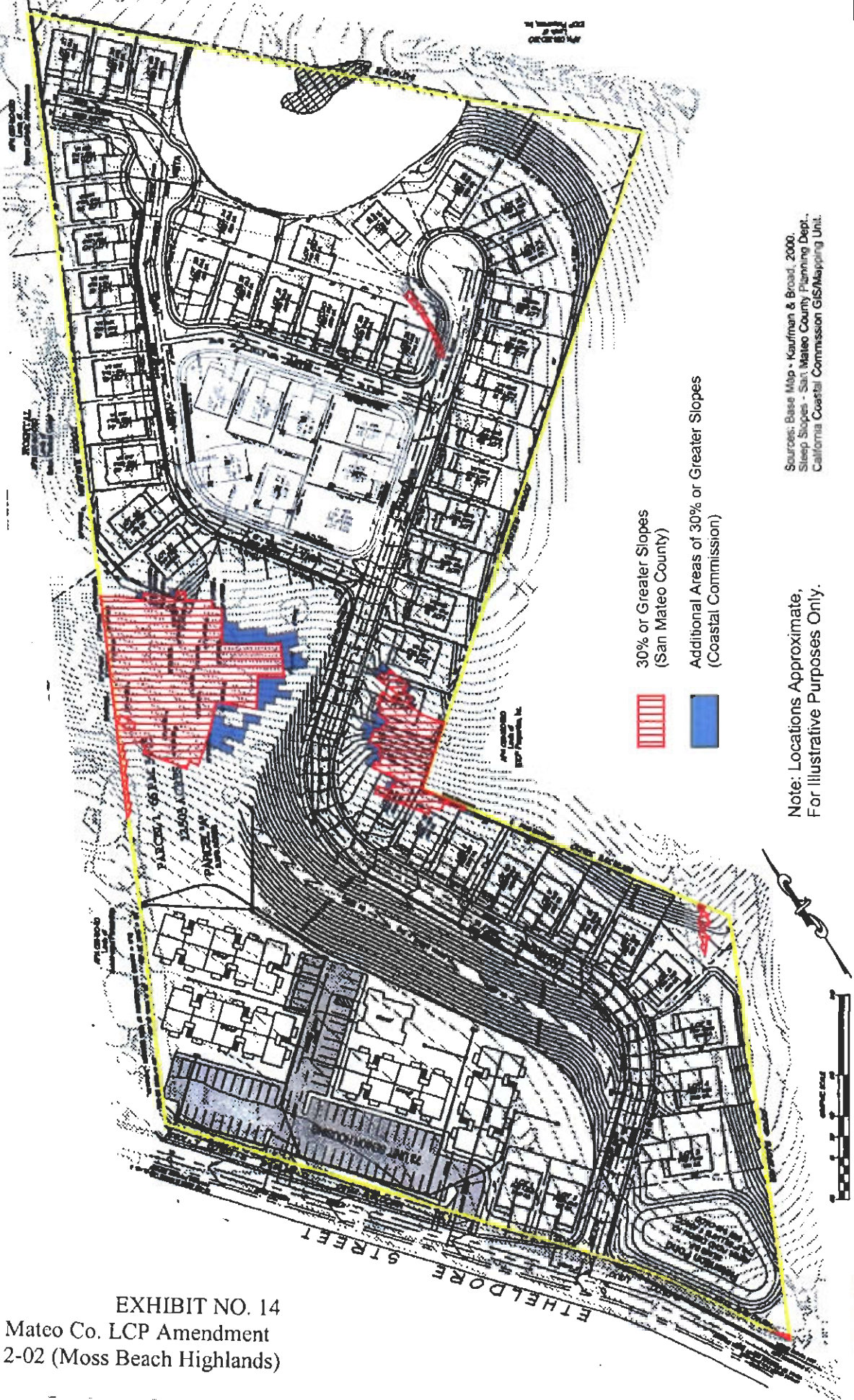


EXHIBIT NO. 13
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

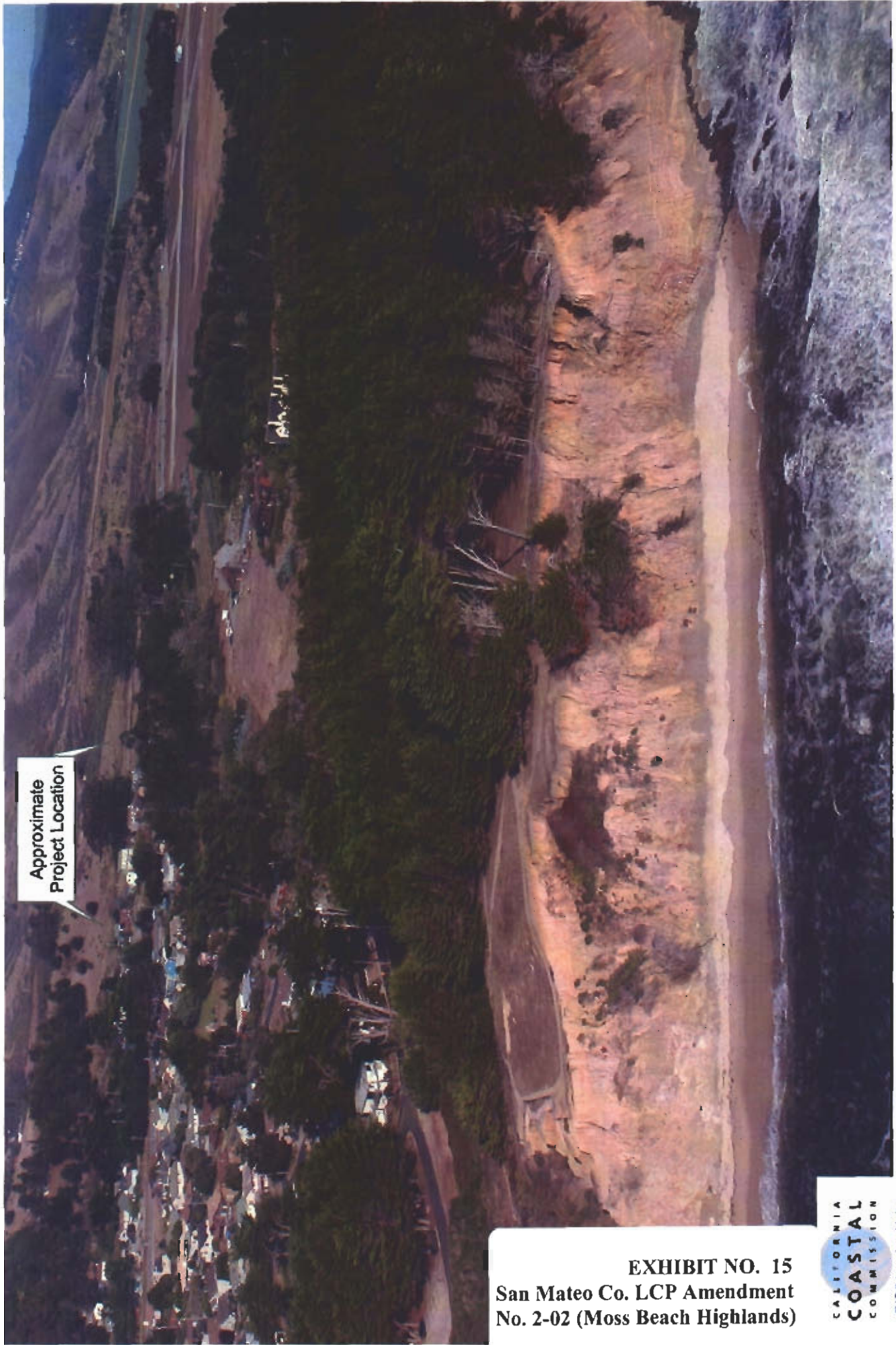
Source: Knutson and Broad, 2000

South Moss Beach Site Plan Showing Steep Slopes

EXHIBIT NO. 14
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)



2002 Oblique Aerial View: Vicinity of South Moss Beach Site



Approximate
Project Location

EXHIBIT NO. 15
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

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GIS/Mapping Unit
Technical Services Division

Note: Locations Approximate, For Illustrative Purposes Only.

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California Coastal Records Project,
www.CaliforniaCoastline.org

2001 Aerial View: Vicinity of South Moss Beach Site



EXHIBIT NO. 16
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

Note: Locations Approximate, For Illustrative Purposes Only.

2001 Aerial View: Vicinity of South Moss Beach Site



EXHIBIT NO. 17
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

Row Cropping on POST Land
South of the South Moss Beach Site

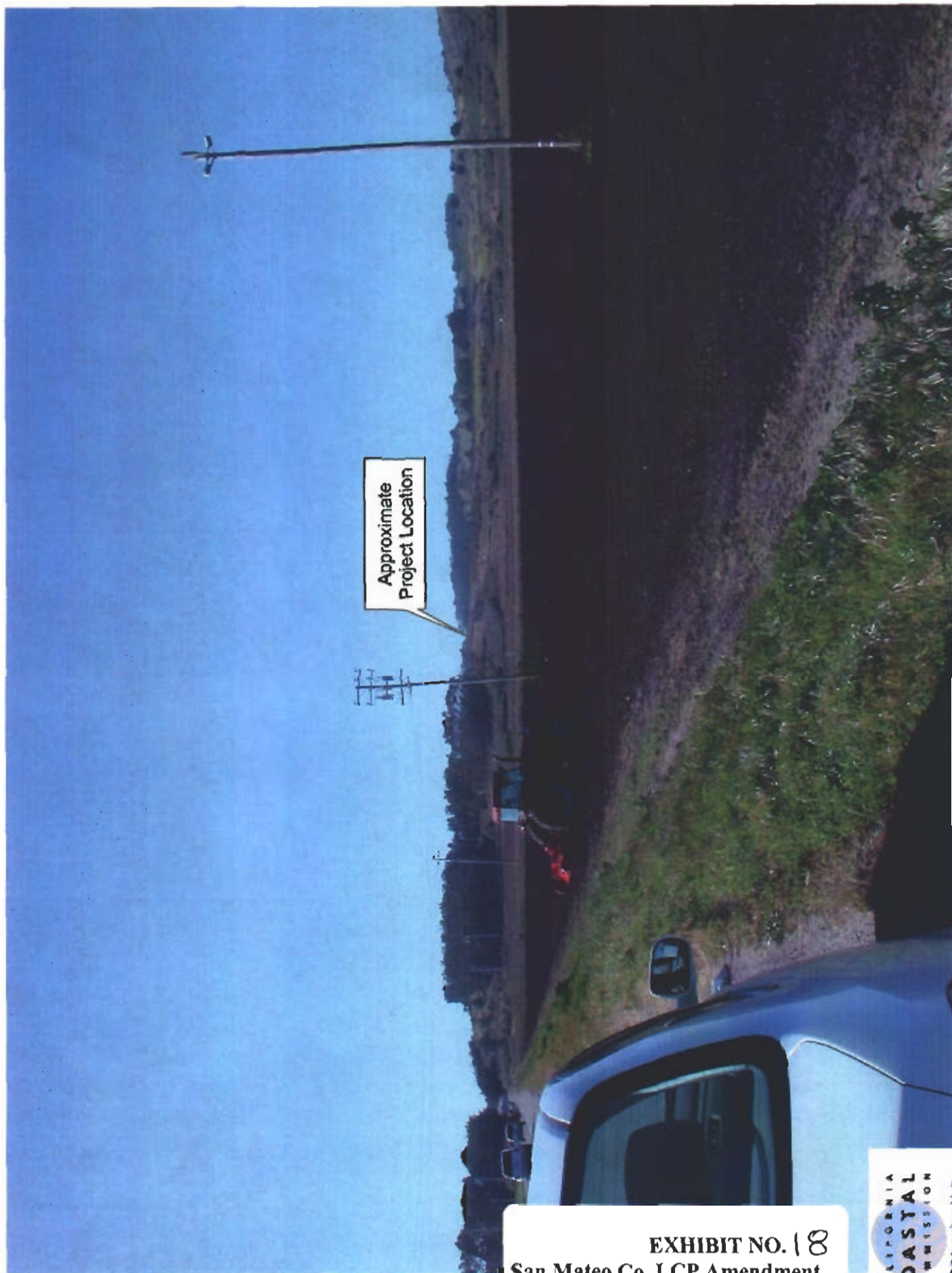


EXHIBIT NO. 18
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

Existing Viewpoint A
(Near Intersection of Hwy. 1 and Cypress Ave.)

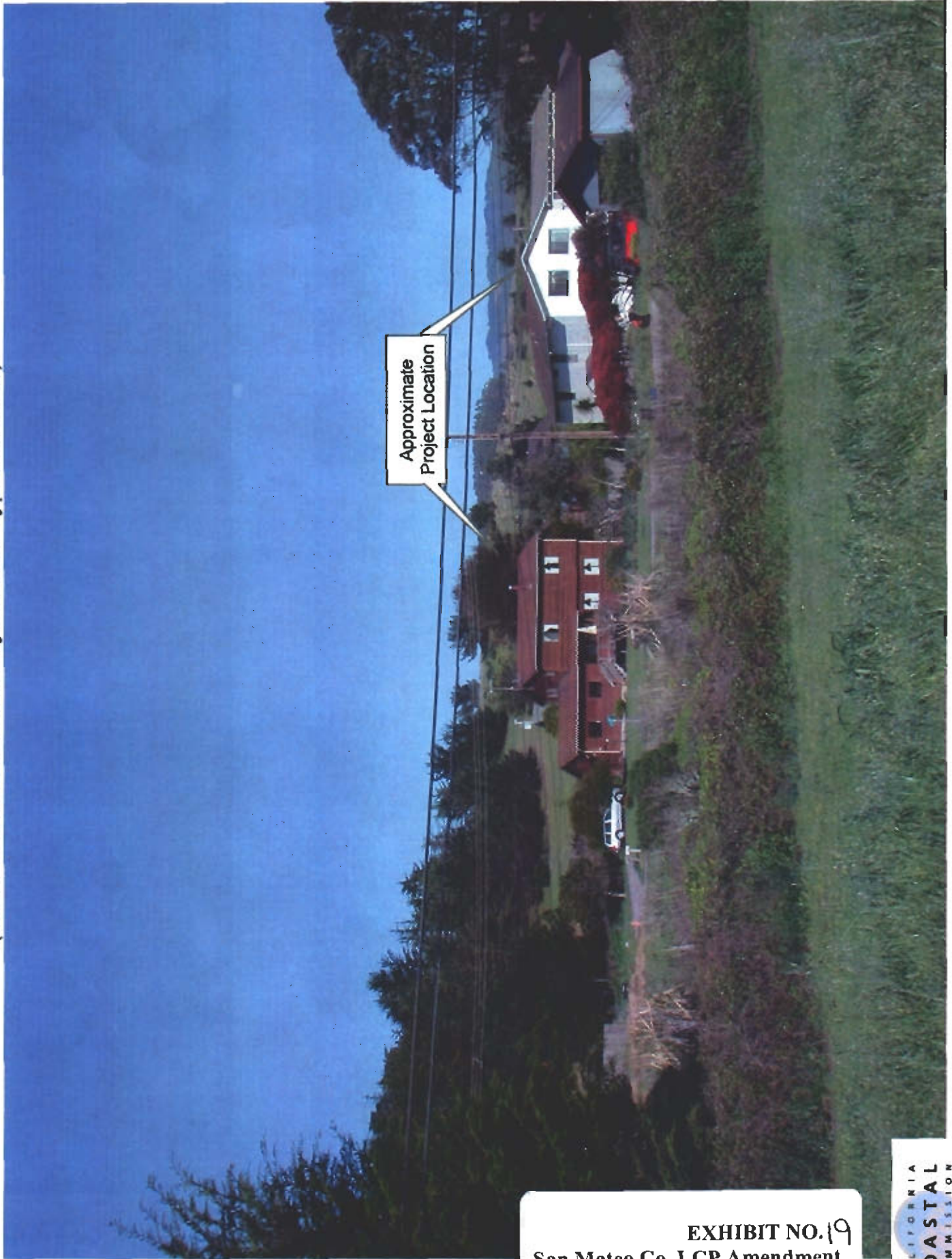


EXHIBIT NO. 19
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)



GIS/Mapping Unit
Technical Services Division

Viewpoint A - Photosimulation of Approved Development (Near Intersection of Hwy. 1 and Cypress Ave.)



EXHIBIT NO. 20
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

View of Revised, Reduced Density Alternative with Relocated Tot Lot, Single-story Houses and Mitigation Landscaping

Source: Environmental Vision 7-20-00

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Technical Services Division

Existing Viewpoint B
(Near Intersection of Hwy. 1 and Marine Blvd.)



EXHIBIT NO.2 (
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

Existing Viewpoint C
(Near Intersection of Hwy. 1 and
Southern End of Etheldore St.)

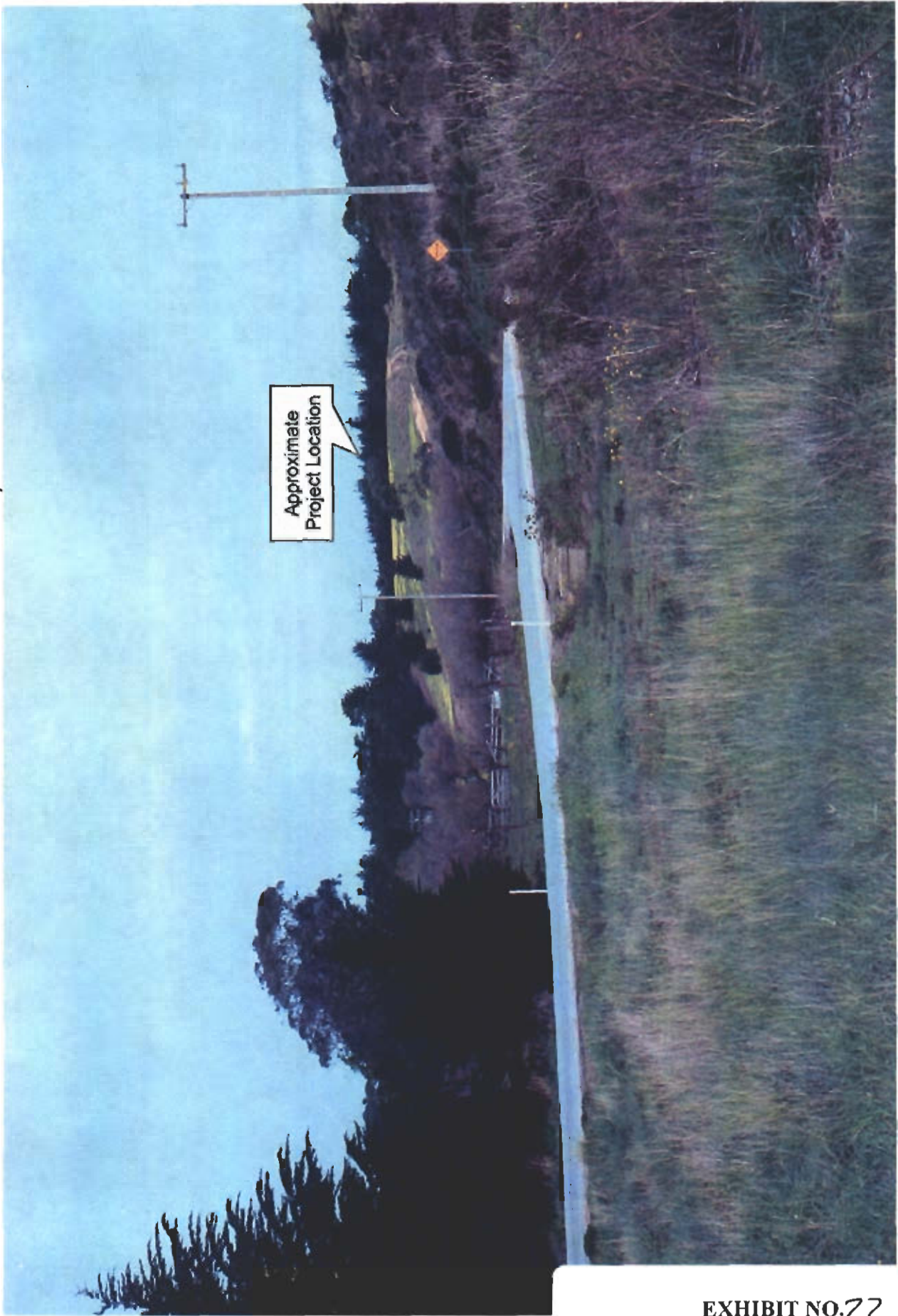


EXHIBIT NO. 22
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)

Wetland Drainage Ditch (Wetland B)



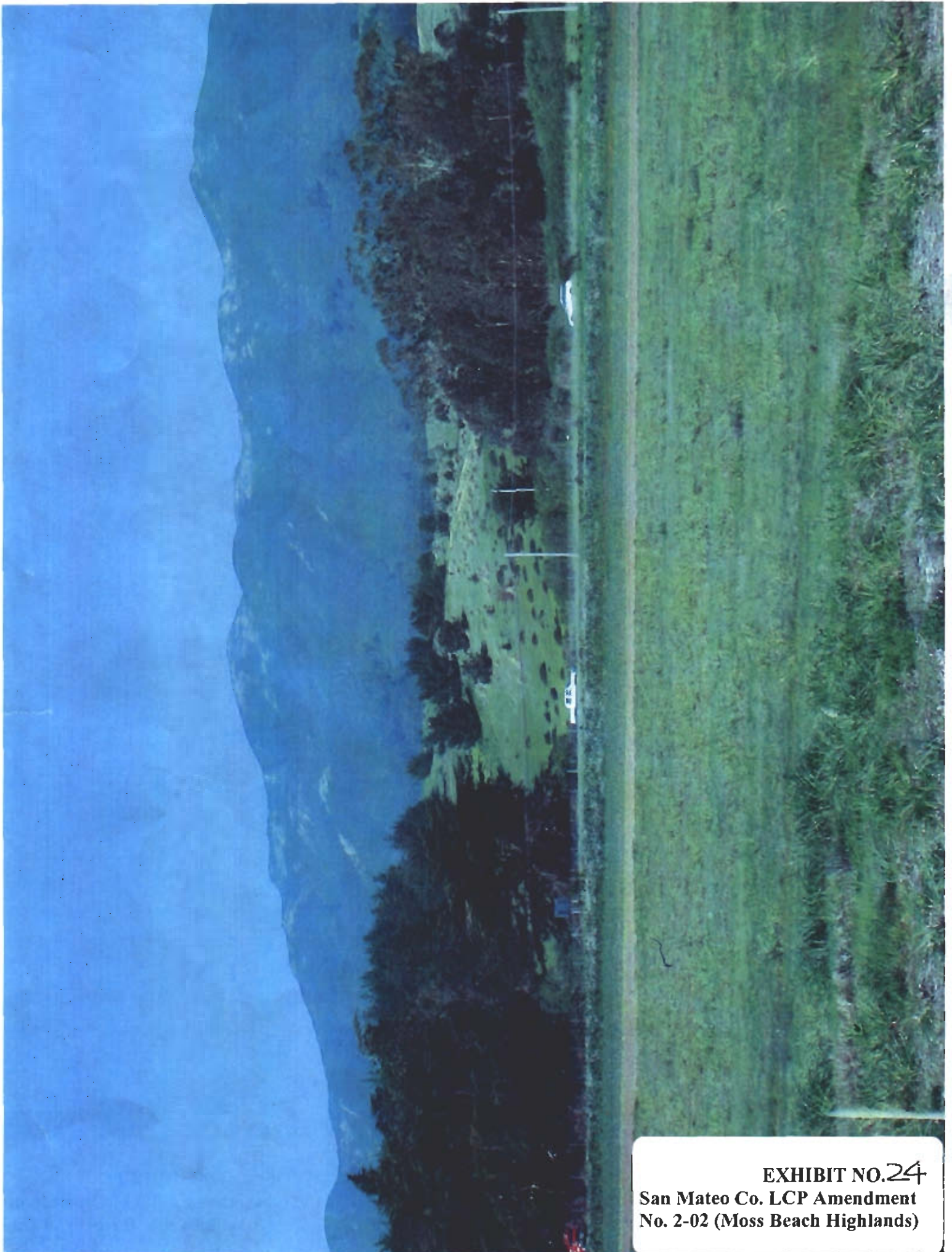


EXHIBIT NO.24
San Mateo Co. LCP Amendment
No. 2-02 (Moss Beach Highlands)